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THE DEATH PENALTY

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Palm, Andrew J.
The death penalty

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DISCARD

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QUESTIONS OF THE DAY SERIES.—No. LXVI.

THE DEATH PENALTY

A CONSIDERATION OF THE OBJECTIONS TO CAPITAL PUNISHMENT, WITH A CHAPTER ON WAR

BY

ANDREW J. PALM

364

"To shorten a human life is to put in jeopardy a human soul."—WILBERFORCE.

DISCARD

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TO THE ONE
WHO WILL READ THIS BOOK
WITH THE GREATEST INTEREST, WHO WILL
DEAL MOST CHARITABLY WITH ITS MANY IMPERFECTIONS
AND MOST APPRECIATE ITS FEW MERITS
IT IS SINCERELY INSCRIBED
BY THE AUTHOR

PREFACE.

THOUGH this book deals with a subject almost as old as the human race, it is not necessary to make any apology for offering it to the reading public; for, as long as men are called to sit in judgment over a fellow-creature, and are sworn to decide whether he may live or whether he must die, the death penalty must be a question of urgent interest, and one upon which every man should have an intelligent opinion.

Those who are opposed to the penalty of a life for a life may find something in these pages to confirm their views, while those who have never studied the subject, but take it for granted that the punishment of death is right because it is old, will, it is thought, here find statements worthy of their careful consideration.

JANUARY 1, 1891.

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THE DEATH PENALTY.

CHAPTER I.

INTRODUCTORY.

The law that dips its finger in human blood to write the commandment, Thou shalt not murder, is naught but an example of legal transgression against the precept itself.—VICTOR HUGO.

THE writer is well aware that he is undertaking to discuss a subject almost as old as humanity itself. The question, whether that mysterious, inexplainable principle called human life should be exacted as a forfeit for the commission of crime, has been affirmed on one hand with all the fervor of religious enthusiasm, and denied with equal vehemence on the other, from the early morning of civilization to the present time.

The great question yet remains undecided, and will so remain until it shall be settled on the eternal principles of right and reason.

While the opponents of the death penalty have been gaining steadily in numbers and influence, those who uphold it or tacitly assent to it are yet in a large majority, and life still goes for life in almost every part of the world, civilized as well as barbarian.

Looking at the subject from one standpoint, it seems incredible that in this, the last quarter of the nineteenth

century, in this wonderful age of improvement, invention, and liberal thought, the same spirit of revenge that characterized the race in its infancy should still control humanity in the treatment of its most unfortunate class.

On the other hand, when we consider how slow the progress of the race has been, that the most glaring wrongs have been sanctioned and perpetrated for ages under the form of law and the influence of ignorance and prejudice, it is not so surprising that the old Jewish doctrine of an eye for an eye should still actuate the law-making powers of the world.

He who attempts to write a book on this subject cannot hope to advance any new ideas or state any new principles, and can scarcely expect to offer any new statement of old ideas or old principles. Every year, however, brings additional experience, and in the light of this experience old theories and old arguments can be reaffirmed with all the more assurance that they are right, and must sooner or later be recognized as just and adopted as necessary. Notwithstanding the fact that this is one of the oldest subjects that has enlisted the attention of man—one that has been so much discussed from platform and pulpit, and in the press,—its literature is scarce, fragmentary, and hard to find. How often men have gone to the bookstore, when the subject of capital punishment was before their literary club for discussion, and asked for some book to afford light on the question. The answer has usually been the same: "We do not have any work on that subject, and do not know where you can get one."

Beyond a few newspaper and magazine articles, and an occasional old book, nothing can be had treating of the death penalty, by those who want to know what objections are urged against it. Those who believe in blood

for blood, and who do not want to believe any thing else, can find the sum-total of the arguments in its favor in the "Pentateuch."

The author of this volume may not add any thing to what has been so often and so well said on the subject, but, if he succeeds in arranging the most cogent arguments that have been presented, and placing them within the reach of those who may be willing to investigate, he will not regret the time and labor spent in the work.

All that is needed to erase the punishment of death from the statutes of every State in the Union and every nation on the globe, in a few years, is to get men to throw aside their prejudices long enough to examine the case fairly and intelligently. As Wendell Phillips says: "To get men to listen is half the battle, and the hardest half in all reforms." Many men never investigate a subject with any other purpose than to strengthen the opinions and prejudices they already hold. Like the Brahmin who crushed with a stone the first microscope that showed him living things in the vegetables of his daily food, men try to crush out, even by violence, every truth that runs counter to their preconceived notions of what the truth should be.

It is a fact that a large majority of those who have studied this subject fairly, are impressed with doubts of the righteousness of the death penalty, sufficient, at least, to excuse them from service on juries for murder trials—if, indeed, they are not fully convinced that hanging men for crime is in itself a crime. It is also true that those who are excused from jury service on murder trials, because of having conscientious scruples against taking the life of a fellow-being, are almost without exception honest, intelligent men, who are accustomed to think and act for themselves.

Judge Barrett, of the New York Supreme Court, is opposed to the abolition of capital punishment, yet he said only a few months ago, when the subject was before the New York Legislature: "I know, from my experience on the bench, that out of a panel of one hundred jurors there will be perhaps one fifth of them who have conscientious scruples against the infliction of the death penalty, and that consequently there is a reasonable minority who take this view of the matter, and they are apt to be people, too, of the highest intelligence and the finest feeling."

On the other hand, when a man stands in the jury-box and swears with uplifted hand that he has no hesitation in sending a fellow-man to a felon's death, it simply means, in most cases, that his freedom from the voice of conscience is born of ignorance; that he has never given the subject an hour's honest thought; but has taken it for granted that hanging is right because it has always been practised. Thousands of honest men—Americans, too—had no conscientious scruples, a few years ago, against selling a man, woman, or child, if the skin of the subject was only of the proper shade to make the sale a business transaction instead of an infamous crime.

An ignorant conscience is an uncertain guide. Slavery was an institution of so long standing that it was assented to as right and proper, without investigation on the part of the great majority. The only thing that entitled it to the least feeling of kindness was its gray hairs, and even they lose much of their claim to respect when they cover the head of a veteran in sin. Arguments in favor of slavery were drawn from the Scriptures, and it was defended from the pulpit as a divine institution long after a few brave men and women, called cranks, enthusiasts, and fanatics, denounced it as evil, in the face of the fact that

Moses may have held a different opinion. So inborn was this prejudice that one of the most remarkable men of Pennsylvania, a Christian gentleman whose character was without a blemish, a jurist whose legal ability was without a superior, attempted, as late as 1881, to make an apology for slavery because it was authorized by the Scriptures, the goodness and authenticity of which he was defending from a scathing attack of Colonel Ingersoll.

When men of his ability, learning, integrity, and standing, socially and professionally, could be so much in sympathy with an institution that is now generally regarded as a monstrous evil, simply because the authority for it was taken as coming from heaven over four thousand years ago, how can we expect the rank and file to throw off readily the customs and laws that have been outgrown by civilization?

It might not be out of place to consider briefly the position assumed on the death penalty by members of the different professions as a class.

It seems to be true that those who have the most to do with criminals are most kindly disposed toward them. They fail, in a great measure, to see that wide chasm which is popularly supposed to exist between the victim within prison walls and his more fortunate brother on the outside. Prison wardens, prison chaplains, criminal lawyers, and others whose duty calls them to associate much with convicts have, as a rule, much less of the revengeful and vindictive spirit toward them than have those who seldom or never come in contact with them. They seem to feel that the criminal is such, usually, because of circumstances that would have had a like influence over a majority of men, and who, under a more favorable condition of affairs, would have been a law-abiding citizen.

The better class of lawyers, generally speaking, do not have much faith in the death penalty as a preventive of murder. They well understand that it is the certainty, and not the threatened severity, of punishment that restrains the criminal; and they know, too, both theoretically and practically, how difficult it is to convict a man of murder when the punishment is death. Lawyers, too, as a class, are more charitable in their views toward those who are unfortunate than are the members of some of the other professions.

Judges, as a rule, seem to be an exception to what has been said of lawyers. The judge, like the theologian, makes no effort to grow except in one direction. In fact both seem to regard a progressive spirit as something rather to be guarded against than desired. Both have their intellectual limits prescribed, and to wander outside the lines of their professional pasture would call trouble upon their heads.

The theologian accepts certain tenets as true to start with, and then compels all his thinking and semi-reasoning to conform to what he determined in advance to believe and advocate. The judge has the law, ready made, placed before him, and whether good, bad, or indifferent, he takes an oath to administer it all as equally good. His highest ambition is simply to know the law as it is, without question as to what it ought to be.

As a class, they seem to favor the law of blood, though the exceptions are many and notable. It is strange, but true, that many of them are as ignorant as laymen concerning the objections that are urged against the death penalty. In conversation, not long since, with a member of the Supreme Court of Pennsylvania, the writer broached the subject, thinking to obtain some valuable information. The judge was in favor of capital punishment, but he had

no reason to offer in support of his opinion, except the fact that death for murder is, and always has been, sanctioned by law. He did not even know that the death penalty has been abolished in any States of the Union, and frankly admitted that he had given the subject very little attention, because it was his business to interpret law, and not to make it. Very well, but who is more in duty bound to study and observe the effect of laws, to understand their influence on those for whom they are made, and to discover whether they are good or bad, than he who wears the judicial ermine? Who is under greater moral obligation to recommend a change when his observation and experience teach him that a law has outlived its usefulness or been made of doubtful value by the moral and mental advancement of the subjects for whom it was enacted?

Judge White, of Pittsburgh, seems to realize that this is a part of his duty. About six months ago, on sentencing a murderer to the gallows, he used the following language, after passing sentence: "I have about come to the conclusion that it would be better to abolish capital punishment entirely, and that murders would be less frequent if imprisonment were substituted in place of the death penalty."

Editors very generally act on the idea that it is their duty simply to reflect public sentiment, and not to create or change it. A few leading papers come out boldly and denounce the punishment of death as a barbarism, but the number of country editors that have the inclination to attack a venerable institution like hanging is very small. They might lose a subscriber by expressing a decided opinion, even if they had one, against this antediluvian custom, and a subscriber is, to the average country editor, something too valuable to lose by differing on a simple matter of opinion.

When publishing a country weekly, the writer took occasion at times to condemn the gallows. Many subscribers were displeased, and charged the origin of such ideas to a disbelief in the Sacred Word. These men had a strong sentiment for the Bible, but it was mostly a mere sentiment. The two verses, "Whoso sheddeth man's blood by man shall his blood be shed," and the one like unto it, "He that spareth the rod hateth his son," constituted the sum-total of their knowledge of the Old Testament, while their respect for the New was based largely on Paul's advice to Timothy to take a little wine for his stomach's sake. They were, however, just as firm in the faith of hanging, whipping, and moderate drinking as if they had much more authority for their position. They threatened to stop their paper, if it continued to wage war against venerable customs; but party politics, the tie that binds, kept the majority of them from carrying out their threat of retaliation.

The practice of medicine seems to incline the minds of those devoted to it less to the study of general subjects, than does the practice of law, preaching the Gospel, or editing a paper. The physician may do a great deal of thinking on questions of political and social economy, but he is seldom an agitator, and takes less interest in trying to influence legislation than do the members of the other professions named. Most preachers, lawyers, and editors are politicians, or at least imagine they are; but while the physician may hold to his political faith as tenaciously as do any of the others, he is seldom an "offensive partisan." If the people violate the laws of health with sufficient frequency to give him all he cares to do, in giving prescriptions at a good price, the physician does not worry much about their violating the laws of the land.

There are many exceptions to this, of course, and many earnest advocates of prison reform and a more lenient method of dealing with the criminal class are found among physicians. Those who make diseases of the mind a study, if we may speak of a diseased mind, are usually very liberal in their views as to the moral responsibility of human beings for their actions; but they differ widely as to their legal responsibility. For example, Dr. Hammond, in his "Insanity and its Relations to Crime," admits that insanity in some degree is manifested by many of the worst criminals; but his doctrine as to what should be done with them is horrible. He says: "No valid argument can be addressed against the punishment of the insane, even though they be morally irresponsible for their acts by reason of delirium, dementia, morbid impulse, emotional insanity, or any other form of mental aberration. Some of the insane are such monsters of depravity that they should be slain, upon the same principle that we slay wild and ferocious beasts."

To the credit of the profession, let it be said, there are few who hold, or have the hardihood to advocate, such an inhuman doctrine.

Dr. Cowperthwaite, in his "Insanity in its Medico-Legal Relations," remarks, in speaking of this assertion of Hammond's: "Such an inhuman and monstrous doctrine, emanating from such a source, cannot but retard the progress of humane justice. It sounds strangely similar to the barbarous doctrines of past centuries, and is certainly quite unworthy of its distinguished and talented author."

The physician occupies a very responsible position in a court of justice when he is called upon to testify as to the responsibility of the "prisoner at the bar." One author says: "It must be the first duty of the medical man to

uphold the truth against error, even though he becomes a target for the rash and unjust censure of an ignorant multitude."

"A wretch foredoomed to insanity by malorganization or hereditary defect," says Connolly, "has no other friends in the world. The same courage that causes the physician to brave the dangers of the pestilence should support him in this duty beneath the assaults of pestilential tongues and pen. Not the voice of the people calling for execution, nor the severities of the bench, frowning down psychological truth, should shake his purpose as an inquirer and a witness. His business is to declare the truth. Society may deal with the truth as it pleases."

I have no desire to pick a quarrel with the ministerial profession, though it would be folly for any one to oppose the death penalty and not expect to be regarded by the clergy as an enemy of the public peace and the public morals.

It is gladly granted that most ministers are good men; that they have the good of society at heart, and that they are doing a noble work; yet it is an unpleasant fact that, as a class, they are more narrow-minded, more bigoted in their views, more illogical in their reasoning, and less charitable in their allowance for human frailties than are the members of any other profession.

Neither have they been found at the head of great reforms, but usually in the rear of the van. They want "Thus saith the Lord" for every thing they undertake, and while waiting for the "still small voice" to come with sufficient force to set them to action, others grasp the situation, go ahead, on the principle that the Lord helps those who help themselves, set the wheels of reform in motion, and the preachers come up just in time to say "Amen," and to thank the Lord that the victory was won by faith and prayer.

It will not be denied that slavery was defended from the pulpit less than fifty years ago, North and South; and it was not until long after it was denounced as a thing of evil by a few black Abolitionists, that ministers, as a body, had either the inclination or courage to oppose it, and then they did so, at first, very cautiously, fearing they might be doing violence to the traditions of the patriarchs and the memory of their ancestors in Judea, who made slaves of the heathen round about them.

The following extract is a part of an address to the "Church of Jesus Christ Throughout the Earth," from the General Assembly of the Presbyterian Church South, in 1861:

"The Northern section of the Church stands in the awkward predicament of maintaining in one breath that slavery is an evil that ought to be abolished, and of asserting in the next that it is not a sin to be visited by exclusion from the communion of the saints. It occupies the position of a prevaricating witness whom neither party will trust.

"Slavery is no new thing. It has not only existed for ages in the world, but it has existed under every dispensation of the covenant of grace in the Church of God. Indeed, the first organization of the Church as a visible society, separate and distinct from the unbelieving world, was inaugurated in the family of a slaveholder. Slavery again reappears under the law. God sanctions it in the first table of the Decalogue, and Moses treats it as an institution to be regulated, not abolished; legitimated, and not condemned. We come down to the age of the New Testament, and we find it again in the churches founded by the apostle under the plenary inspiration of the Holy Ghost.

"Moses and the apostles alike sanctioned slavery. We

cannot prosecute the argument in detail, but we have said enough, we think, to vindicate the position of the Southern Church. We have assumed no new attitude. We stand exactly where the Church of God always has stood, from Abraham to Moses, from Moses to Christ, from Christ to the Reformers, and from the Reformers to ourselves. We stand upon the foundation of the prophets and the apostles, Jesus Christ himself being the corner-stone. Shall the finger of scorn be pointed at us, and our names cast out as evil, because we utterly refuse to break communion with Abraham and Isaac and Jacob, with Moses, David, and Isaiah, with apostles and prophets and martyrs, with all the noble army of confessors who have gone to glory from slave-holding countries and a slave-holding Church?"

This was the position of the Southern ministers in 1861. The Northern preachers had been driven away from the faith of their fathers, to some extent, before this time, owing to the fact that slavery, not paying in the North, had been abolished; and the sentiment there was turning against permitting it to exist in any part of the country—a sentiment that the noble woman who wrote "Uncle Tom's Cabin" did more to create than all the ministers between the two oceans. Would the Southern ministers, if left to themselves, ever have created a sentiment against slavery sufficient to abolish it? Never. Neither would Northern ministers, if the sentiment of the pews had not forced the sentiment of the pulpit.

The tendency on the part of the clergy to be conservative may be accounted for on the ground that they draw their inspiration, and the principles by which they are supposed to be governed, largely from the antediluvian world. They still believe in what has been aptly called the "carpenter" theory of creation. They make no allowance for the race to grow, but think that what was

good enough for Abraham and Moses four or five thousand years ago, with a little polishing, is good enough for the American people in the nineteenth century.

It is hardly necessary to add that ministers, as a body, are ardent advocates of the law that demands blood for blood, and they can justly claim the credit, whatever it may be, for having kept the old law so long in force. Some of their ablest men, however, who, by the way, are usually the most liberal, are opposed to overcoming evil with evil, and have had the courage so to express themselves.

When ministers become convinced that it is their duty to fight a custom, they go into the contest in earnest. As soon as the Northern preachers were satisfied that slavery in Judea did not make slavery right in South Carolina, they went at it "tooth and nail," and did much to create the impression that it was a national evil that ought to be banished as soon as possible. If the time comes when they outgrow another Jewish custom, when they believe what they preach—that the vilest sinner may return, that forgiveness, mercy, and lenity are better than vengeance, retaliation, and blood—then death, as a punishment for crime, will soon be relegated to its proper place among the relics of a lower degree of civilization.

The opponents of death for death are found in all professions and callings; and, without being arrogant or egotistic, they can claim that, in point of goodness and intelligence, they compare very favorably with their neighbors. They may rest assured, too, that unless civilization has reached its zenith, unless the race is susceptible of no further development, the time will come when the spectacle of man's deliberately and designedly putting his fellow-man to death will be looked upon with horror such as that we now feel when reading of the infernal tortures of the Inquisition.

CHAPTER II.

PUNISHMENT IN GENERAL.

Man's inhumanity to man makes countless thousands mourn.—BURNS.

MAN is by nature the most cruel creature in the world. He ceases to be cruel only when his mind is enlightened by culture and his heart softened by benevolence and charity. No beast that roams the jungle of wildest Africa; no slimy, poisonous reptile that crawls; not even the devils in Dante's hell, can compare with man as a creature of cruelty.

The volumes in which the world's history is written are a record of atrocities that would put a fiend to shame. It certainly is not pleasant, perhaps not profitable, to read of the tortures that have been inflicted upon man by his fellow-creatures. As the study of astronomy makes one feel smaller than the merest speck of dust, to read of wars, exterminations, conquests, executions, and tortures, causes one to lose that respect which he would like to have for his race.

Not only in war—when reason is dethroned, and every moral sentiment and obligation cast aside—has man shown himself a cruel being, but even in times of peace his history has been written in characters of blood.

His ingenuity has been exhausted in devising instruments of torture and death. Let me give a partial list of the instruments and methods that have been employed

by man to compel obedience to his law, or to inspire respect for God's law as interpreted by his assumed vicegerents on earth:

Crucifixion, hanging up in a cage to await death, suspending the victim with weights tied to his feet, pouring melted lead into the ears, immersing one or more limbs or the whole body in boiling oil, burning over a slow fire, plucking out the hair in masses, slitting the nostrils and lips, cutting out the tongue, confining in bottle-like prisons without ventilation, cutting off the hands, ears, or nose, crushing the body with heavy weights, breaking the bones on the wheel, flaying alive, tearing the flesh with hot pincers.

This list by no means exhausts the fearful catalogue, but it is sufficient to show that man's cruelty is beyond comprehension. These punishments were inflicted, not only in rare cases, but thousands and hundreds of thousands suffered their torments. Llorente estimates the number that suffered under the Inquisition alone, from 1483—1808, to be as follows: Burned alive, 31,912; burned in effigy, 17,659; subjected to rigorous pains and penances, 291,456.

Roman Catholic authorities say that Llorente overestimates the number; and it is not surprising that they should want the horrible record softened as much as possible. But take their own estimate, divide it by ten, and the quotient still shows a fearful list of crimes to be committed in God's name and for the honor and glory of His cause.

These were punished for heresy in some form. Add to it the number of those punished for civil offences throughout the world, and the number slain in war, and what a spectacle man presents, to be considered the most intelligent animal in creation.

The punishment of death, according to Agassiz, Darwin, Humboldt, and others, is of heathen origin. Jeremy Bentham says that capital punishment would naturally suggest itself in the infancy of a state. When any one had committed an offence and disturbed the peace of society, the question naturally would arise, how shall we prevent these things? The answer most likely to suggest itself to a barbarian would be, "Extirpate the offender, and give yourself no further trouble about him." Mr. Bentham lamented the fact that England still adhered to the barbarian idea in his day.

In the most primitive states of society, retaliation was the method of punishing offences, and this was inflicted by the one who suffered the injury, or by some of his friends. Under the Hebraic law, the punishment was inflicted injury for injury, life for life; but, according to Moses, it appears that the punishment was not meted out by the government, but the injured person or any of his friends had the right to pursue the offender and inflict the punishment.

The Germans in their primitive condition allowed private retaliation for injuries; but at the time of Tacitus they had taken a step in advance. It was still a point of honor for every clan to revenge the death or injury of a member, but the magistrate had acquired a right of interposing in the quarrel. He obliged the injured person to accept a present from the aggressor and his relations, as a compensation for the injury, and to drop all further means of revenge. The value of this present was fixed, and was usually paid in cattle, their principal wealth.

We learn from Hume that in England, under the laws of Alfred, if any one knew that his aggressor, after doing him an injury, was determined to keep in his own house, he might not fight him till he had required compensation.

He might besiege the house seven days without attacking the inmate, and if the inmate surrendered, his adversary could keep him a prisoner thirty days, but at the end of that time he must return him to his friends and accept compensation.

It was enacted by King Ina that no man should take revenge until he had first demanded compensation and been refused.

King Edmund, in the preamble to his laws, lamented the prevalence of private feuds and battles, and ordained that any one committing murder might, with the assistance of his friends, pay the penalty with a fine. If his friends abandoned him, he had to stand the quarrel alone with the friends of the victim. The aggressor's friends were freed from any quarrel with the friends of the murdered man, provided they did not converse with the criminal or furnish him any necessaries of life. If any of them assisted him, they became involved in the feud. The fine was never to be remitted by the king, but no criminal could be killed who flew to the church or any of the king's towns. The fine for murder ranged from thirty thousand thrimsas, or over $6,000, the price of a king's head, down to two hundred and sixty-six thrimsas, or a little over $50 for the head of a husbandman.

The price of wounds was also fixed. One an inch long under the hair was a shilling; if on the face, two shillings; the loss of an ear, thirty shillings. By the laws of Ethelbert any one committing adultery with his neighbor's wife was obliged to pay him a fine and buy him a new wife.

The space cannot be spared to trace the growth of laws down the historic halls of time, but these few examples show how crude were the primitive ideas of justice; but on second thought are not modern ideas nearly as crude

in many respects? In those early days a money value was placed against a life. Is that not fully as sensible as putting a life against a life, taking two instead of one? The money penalty did not restore the lost life; neither does the death penalty. Not only is life taken for life, but, to our shame, it must be said that in many States of the Union life is forfeitable for the crimes of rape, burglary, and arson.

It is, perhaps, true that no other time in all England's history is characterized by so little vengeance and cruelty toward her subjects as those early days of King Alfred, who framed the basis of the English common law.

Among primitive people the death penalty was most likely inflicted by stoning, as stones were about the most convenient and effective death-dealing weapons they possessed. It was long years after the punishment of death was first inflicted, before an instrument was made by which a man could be beheaded with any degree of comfort to himself or of especial delight to the executioner.

After stoning came burning, the victim being tied hand and foot and cast into the flames. The Chaldean king, Nebuchadnezzar, we are told, had an oven into which the victims were cast. When Daniel's three friends, Shadrach, Meshack, and Abednego, refused to fall down and worship the golden image that Nebuchadnezzar had set up, he had the furnace heated to seven times its usual temperature and threw them in. He was very much astonished, on looking in some time afterward, to see the young men walking about, cool and unconcerned. He called them out, and wanting to be on good terms, as kings always wish to be with those more powerful than themselves, he made a decree that any one who would say any thing amiss of their God should be cut in pieces.

Human life and human feelings have been regarded as

worthy of very little consideration, one being taken and the other outraged on very slight pretexts, even by governments that boast of their enlightenment.

In the days of Blackstone there were in England one hundred and sixty offences punishable with death, and the number at one time reached two hundred and twenty-three. A human life in England at the beginning of this century was not worth as much in law as the life of a hare; for an attempt to kill a hare unlawfully was an offence punishable with death.

In the reign of Edward IV. an unfortunate punster kept an inn in London with the sign of the crown. He said he would make his son heir to the crown, and for this he was hanged, drawn, and quartered.

In the same reign an owner of deer had one killed by the king when hunting. He was angry and said he wished the horns of the deer were in the king's stomach. For this indiscreet expression he was put to death.

The thirty-second statute of Henry VIII. made it high treason, punishable by a horrible death, to accept, take, judge, or believe that the king's marriage with Anna of Cleves was legal and valid.

French laws were equally cruel, and their execution sometimes horrible beyond description. Following is a part of the sentence of death pronounced on Ravaillac for assassinating Henry IV.: "The said Court hath decreed and doth declare the said Ravaillac duly attainted of the crime of high treason divine and human in the highest degree, for the most wicked, most abominable, and most detestable parricide committed on the person of the late King Henry IV. of good and laudable memory. For reparation thereof, the Court hath condemned and doth condemn him to make the *amende honorable* before the principal gate of the Church of Paris, whither he shall be

carried and drawn in a tumbrel in his shirt, bearing a lighted torch of two pounds' weight; from whence he shall be carried to the Greve, and on a scaffold to be there erected the flesh shall be torn to pieces with red-hot pincers from his breast, his arms, and thighs, and the calves of his legs; his right hand holding the knife wherewith he committed the aforesaid parricide shall be scorched and burned with flaming brimstone; and on the places where the flesh has been torn with the pincers, melted lead, boiling oil, scalding pitch with wax and brimstone melted together, shall be poured; after this he shall be torn in pieces by four horses, his limbs burned to ashes and dispersed in the air."

The execution was carried out with more fiendishness, if possible, than the directions given by the court would warrant. The French historian Guizot does not even mention Ravaillac's name, nor give any account of the trial or execution; perhaps for the reason that he was ashamed to have so horrible an event written down as a part of the history of his people. He simply says, in reference to the death of Henry IV., that he was stabbed by an abominable assassin, but he does not mention the assassin's name nor refer to his trial or execution.

Within the memory of many yet living, it was the law of England to hang persons convicted of stealing goods to the value of five shillings, from a store, warehouse, or stable; and that the person convicted of treason should have his bowels torn out and burned while he was yet alive. We find an interesting account of the effort to repeal these laws in the diary of Sir Samuel Romilly, who served in Parliament from 1806 to 1818. We quote his own language from the diary:

"Wednesday, Jan. 17, 1813. In the House of Commons I moved for leave to bring in a bill to repeal so

much of the Act of King William as punishes with death the offence of stealing goods to the value of five shillings from a shop, warehouse, or stable; also to alter the punishment for high treason and to take away the corruption of blood as an attainder of treason or felony. I omitted the bills formerly brought in with these, to take away capital punishment for stealing in dwelling-houses and on board vessels, because these bills had excited more opposition than that relating to shops; and some persons even said they would have voted for the latter, if it had not been accompanied by the former. The alteration I proposed to make in punishment for high treason was to omit the embowelling and quartering. I observed upon this horrible punishment that it was one in which the judges had no discretion. In the case of Captain Walcot, who was concerned in the Rye House plot, after his execution his heirs brought a writ of error and the judgment was reversed by the King's Bench, which reversal was affirmed by the Lords, because the judgment omitted to say that the bowels should be taken out and burned while he was yet alive. The omission of those words was held to be fatal to the judgment."

It will be evident to most of our readers, no doubt, that the object of the heir in wanting the judgment reversed, even after his father's death, was to remove the corruption of blood which made all the property, real and personal, of a traitor, revert to the Crown, and also prevented the hereditary descent to any civil right.

"Friday, March 26, 1813. The bill to repeal the Act of King William, making the offence of stealing five shillings from a shop a capital offence, was read a third time in Commons and passed. Ayes 72, noes 34.

"Friday, April 9, 1813. The bill for altering the punishment for high treason passed to-day through the com-

mittee. On my moving that it be received on Monday next, Frankland moved that it be postponed six months. This was passed by a vote of 75 for and 60 against postponing; so that the bill is lost and the Ministers have the glory of having preserved the British law by which it is ordained that the heart and bowels of a man convicted of high treason shall be torn out while he is yet alive."

Sir Samuel, however, kept right on in his good work, and we find the following further on in his diary:

"Monday, July 25, 1814. The House of Lords having returned, with amendments, my two bills, to take away the corruption of blood and to alter the punishment of high treason, I this day moved that the House agree to the amendments, which was carried. The treason bill has many alterations, but the only important change is to preserve as part of the sentence that the body of the criminal after he is dead shall be cut into four quarters. When I moved to agree to the amendment I expressed my strong disapprobation. I said that in my opinion such horrible spectacles as mangling a body from which the vital spark had just departed, before a crowd of spectators, tended only to deprave their hearts. I proposed, however, to agree to the amendment because as the Lords had consented that it should no longer be the law that the heart and bowels of a man convicted of treason should be torn out while he was yet alive, I thought what the Lords had allowed to pass was worth obtaining."

This law was still in force in 1840, and for aught that I have been able to discover may grace the English statute law to-day. It does not appear from Sir Samuel Romilly's memoirs that he ever succeeded in repealing the law punishing the stealing of five shillings' worth of goods with death. Perhaps that, too, yet adorns the pages of English law as one of its bright ornaments; for laws,

when outgrown by civilization, are seldom declared legally dead until long years after they have become practically lifeless.

The law of the United States to-day makes the entire male population, between the ages of fifteen and forty-five, members of the militia; and every man is legally enjoined to provide himself with a gun, powder-horn, and flints, and the officers are directed to carry spontoons. If there is a man living who has ever seen a spontoon, it was so long ago that he has forgotten what sort of a bird, beast, or thing it is. Kentucky is yet a slave state; her constitution of 1849, which is still in force, recognizes the legality of slavery and provides for the regulation of the traffic in human beings. The Ohio constitution still contains the word white, and restricts the right of suffrage to white male citizens.

If legislators do not have the sense or energy to enact new laws in keeping with the spirit of progress, they might at least muster up courage to hold a post-mortem over antiquated ones after civilization has killed them.

Instead of law-makers keeping the laws in harmony with the best and most enlightened sentiment of the people, it is found necessary to urge and reason for years to have obsolete statutes repealed and proper ones substituted.

It has been said that the pulpit makes only such advancement as the pews demand, and law-makers seldom advance beyond the point to which they are driven by public opinion. Imprisonment for debt was the law in every State of the Union, except five, as late as 1845, and it is estimated that seventy-five thousand freemen were every year deprived of their liberty, because they were unable to satisfy their creditors.

A case is reported from Pennsylvania in which a man was actually imprisoned thirty days for two cents.

It is not necessary to speak of the nineteen persons who were executed and the three hundred who were imprisoned in this country under the law, because they had gone into league with Satan and allowed themselves to be bewitched.

It is a pleasure to turn from the contemplation of harsh, cruel, and superstitious laws to those that are humane, just, and lenient. As if to make amends, in some degree, for the cruel treatment of her subjects in time past, England has within a few years made great progress toward humane, sensible, and effective means of dealing with those who are in danger of falling into the criminal class. Good men and women there, as in the United States, are constantly agitating the work of reform in penal jurisprudence; and within a few years there will exist a sentiment among the English-speaking people regarding the treatment of criminals, such as the world has never known.

CHAPTER III.

MAN'S MORAL RESPONSIBILITY.

> Men are the sport of circumstances when
> The circumstances seem the sport of men.
> BYRON.

WITHOUT any apology for crime, or unworthy sympathy for the criminal, it can be said that justice as well as mercy should make great allowance for human conduct. No finite mind is able to decide how far any man may justly be held responsible for his acts. Every individual of the race is born into the world in utter ignorance, and all start alike from zero in the scale of knowledge. Each must learn for himself, either from personal experience or from his predecessors.

Every man who has been immured in prison walls, or suffered death at the hands of his fellows, was once an innocent, helpless babe. He came into the world with a struggle, a scream his first utterance, and his whole life may have been one continuous struggle against disease, against poverty and trying circumstances, against temptations thrown in his way by society, and perhaps against his own natural inclinations to evil, until, discouraged, he gave up the contest and surrendered to the Prince of Darkness.

Can the mother tell what fate has in store for her newborn babe? Can she know whether there lies in her lap

a being destined to be a benefactor of his race or a miserable criminal? and does she have it in her power to contribute much toward bringing about the one result or preventing the other?

It would be a slander on the sex to say that any sane mother would not have her son to grow into an honored and respected man, or her daughter into a noble woman. But how utterly powerless she may be toward bringing about the result of her choice.

She had no voice in saying where or when she herself should be born, or whether her parents should be good and wise, or wicked and ignorant. She may have first opened her eyes in a haunt of vice. The first sounds she remembers may be those of cursing and blows, and the first sight she recalls may be a tragedy. As she grew up she may have had some vague longings for something better than what fate had forced upon her, but, fastened as by bands of iron to the miserable hovel of poverty, wretchedness, and vice, how can she be any thing than what she is—a degraded woman, a depraved mother? If she could have been saved to a better life it must have been done by some outside influence that never came.

"Imagine," says Baroness Marenholtz-Bülow, "an infant with the natural endowments of a Goethe, a Beethoven, a Raphael, or a Franklin, and let its cradle be placed in some haunt of vice and misery, a childhood without loving care, without guidance, passed in the midst of immoral surroundings, a youth lived among drunkards, thieves, and liars, how much of the original material will have developed? As good as none, and the gifts of nature will probably become a perilous weapon in the hands of a scoundrel.

"Or suppose the same gifted child to be born in a palace and brought up by weak, light-minded parents in extrava-

gance and luxury, under the pernicious system of intellectual forcing, but at the same time in all practical senses in utter idleness, is it likely that in such a case the natural endowments will ripen into perfection? Hardly! If a few sickly sprays shoot out and blossom, it is as much as can be hoped for."

"A ridge-tile of a house in Derbyshire," says Gisborne, "decides whether the rain which falls from heaven shall be directed to the German Ocean or the Atlantic." And so influences, entirely beyond the control of the child, may direct it upward to a life of honor and usefulness or downward to a course of shame and vanity.

Oliver Wendell Holmes says that the proper time to begin to train a child is two hundred years before he is born, which is the same idea expressed by Henry Ward Beecher: that in order to hold a man to a strict moral responsibility he should be able to choose his grandparents.

Who can explain the intricate maze of derivation, and tell how much the individual inherits from race, nation, and family? "None can repudiate the heritage of his fathers, whether it descends to him in the features of his face, in his gestures, or in the special qualities of the soul." Man is simply a link, and in a thousand ways does he show that he is a creature fashioned largely by circumstances over which he has no more control than he has over the revolution of the planets.

Let an English child at birth be placed among the Germans, French, or any other foreign people, and it still will learn its mother tongue easier than any other, because of the stamp of heredity.

A well-known medical writer says: "Babies do not ask to be born. Life and disease are both thrust upon them. Poor things! The doctors will earn half their bread and

butter from these wretched specimens of humanity, if the unfortunates manage to live long enough to earn any thing. If boys and girls, men and women, were marketable in the civilized world as they are in some semi-barbarous countries, if they could be sold like horses, cattle, and sheep, the commercial and practical spirit of the age would irresistibly demand an improvement in the stock of human beings, as it demands, and is busy in securing, an improved stock of domestic animals. Celebrated stock-raisers of Europe and America and many of our scientific farmers are superintending, with much care in field, stall, and pen, the propagation of fine breeds of horses, cattle, sheep, and pigs, while at home their offspring are creatures of accident; conceived in many cases under circumstances which render them inevitably sickly, puny, and ill-natured, if not constitutionally immoral."

Richard Grant White says: "Man is a result, a result of forces which were tending toward him centuries before he appeared; a result over which his own free-will and his own work have but a modifying influence."

Robert G. Ingersoll puts it thus: "Is it not possible, is it not probable, is it not true, that the actions of all men are determined by countless causes over which they have no positive control? Each man in some degree bears burdens imposed by ancestors. We know that diseases of flesh and blood are transmitted, that the child is the heir of physical deformity. Are diseases of the brain, of the soul, of the mind, also transmitted? I am perfectly satisfied that there are millions of people incapable of committing certain crimes, and it may be true that there are certain millions incapable of practising certain virtues.

"We do not blame a man because he is not a sculptor, a poet, a painter, or a statesman. We say he has not the genius. Are we certain that it does not require genius to

be good? Who has the mental balance with which to weigh the force of heredity, of want, of temptation?

"We know there are certain deformed bodies, and we are equally certain that there are deformed minds. There is no reformation in degradation. Whoever is degraded by society becomes its enemy. The seeds of malice are sown in his heart, and to the day of his death he will hate the hand that sowed the seeds."

Dr. Despine, a celebrated French psychologist, after a thorough examination of the subject, arrives at the conclusion that there is an utter absence of the moral sense in the criminal class. He thinks that free-will, which, in the moral man, is only controlled by a sense of duty, in the criminal has no such counterbalance, this sense being wanting. His acts are therefore mentally automatic, the result of the strongest appetite or instinct prevailing at the time. "Most criminals are wholly irresponsible," he says, "no matter how great the crime as against society. Like brutes, savages, and idiots they yield to natural appetites and passions, unrestrained and unreproached by any feeling of impropriety, although intellectually cognizant of the moral standards of society."

Dr. White, of Philadelphia, after a wide experience among criminals, comes to this conclusion: "There can be no doubt at the present day that all individuals are not equally responsible for their offences against law and morality. Heredity, predisposition, the influence of education and surroundings, are all powerful factors in the production or prevention of crime. When it shall be possible to distinguish with but little risk of error between the poor wretch who is blindly impelled to his deeds of violence and lawlessness by an influence generated, perhaps before he was conceived, and the cold-blooded, methodical villain who, knowing the right, deliberately

seeks the wrong, it will be possible to apportion to each his proper meed of punishment."

Dr. Oliver Wendell Holmes observes: "A careful study of criminals shows that in a large proportion of cases they are devoid of the ordinary moral instincts; that they have no struggle beforehand except of purely selfish principles; that they have no true remorse for their guilt, and that their apparent repentance is nothing but the fear of the future suffering with which they are threatened. These offenders against society are moral idiots; their crime is not a sin, any more than eating or drinking or the satisfaction of any other natural desire."

Dr. J. B. Thompson says, in the *Journal of Mental Science:* "I have observed that the instinctive or moral faculties in great criminals and in the habituals are so weak as to make their tendencies to crime often irresistible, indicating a great defect in most, and in many a total absence of the moral sense. From a large experience among criminals I have come to the conclusion that the principal business of prison surgeons must always be with mental disease."

Professor Fiske adds: "The criminal classes are those who never had a chance to be any thing else. They have never received any thing, so far as they can see, from society or the state. They cannot see that they owe any thing to the state. Law seems little to them but the rule of the strongest, and they are the natural inevitable enemies of any body or thing which represents the restraining power of society. They could have no chance to reach an intelligence which could see more truly, no chance to attain a morality which should be for them a noble law. These criminal classes, reared in ignorance and vice, and trained from infancy, as multitudes of them are, to crime —taught or led to it, —are fore-ordained from their birth

to police courts and prisons and the gallows. We have thousands in our penal institutions whose criminal careers were made as certain by their surroundings as darkness is certain to follow the withdrawal of light."

The Rev. R. W. Hill, D.D., in speaking of the children of a street known as Shinbone Alley, observes: "Little fellows hardly able to walk aped the swagger and so far as possible the language of their elders. It is no uncommon sight to see the children of both sexes under the influence of intoxicants. Yet these children were naturally bright, and with proper surroundings would have done no discredit to their teachers.

"The trouble was the conditions under which they began their career. With such a start it would be a miracle if they ever lifted themselves to a higher plane. Drinking was the general custom. It was not wrong in their eyes, and had it been so pronounced by any of the inhabitants it would have furnished an additional reason for drifting into the habit; for such children soon learn to love a violation of the right. It is a hard saying to utter, that such children are criminals by fate, yet with such antecedents and such surroundings the birth of children is a prophecy of crime for the future. The stream has no power to lift itself above its fountain. Heredity as surely dooms the progeny of the depraved as water runs down hill. It requires an outside force to save them and a stronger power, too, than usually concerns itself with the denizens of haunts of vice."

A well-known criminal lawyer says, in "Leaves from the Diary of an old Lawyer": "In this world men are often the mere foot-ball of circumstances over which they have no control. I have defended scores of men who, if they had in early youth received the same mental training, been surrounded through life by the same moral

atmosphere that surrounds His Honor upon the bench, would equally well have graced the judicial ermine, while unfortunate circumstances of birth, accompanied by vicious education and corruptive influences from infancy to manhood, would have placed many of the ablest judges of our land in the criminal dock."

Langster, a Washington murderer, wrote President Arthur a letter in which he asked for a pardon on the ground that he was "born wrong."

This reason would have but little weight with the average executive, or pardon board, and would more likely cause a smile than serious thought; and yet the poor wretch in these two words, "born wrong," made as valid and strong a plea as could have been made for him by any lawyer in Washington.

Jesse Pomeroy, the boy murderer who is serving a life-sentence in Boston for his atrocious crimes, is a sort of human hyena, born with a thirst for blood. His father was a butcher, and his mother, in 1874, testified before a committee of physicians that for a long time before the birth of her son it was her custom to visit the slaughter-house to witness the killing of animals, and she took particular delight in seeing her husband take the lives of sheep, hogs, and cattle, sometimes assisting in the work. There is no doubt that the instinct to shed blood was bred in her son, and he was impelled to it as the instinct of a young duck directs it to water. Jesse Pomeroy ought not to be at large to endanger the community by his unfortunate inheritance, but to hang him for committing murder would be less excusable than taking the life of a drivelling idiot. Nothing, however, saved him from the hangman's noose but his extreme youth.

A young man nineteen years of age was discharged recently from the Connecticut State Prison who could lay

full claim to being an unfortunate. Utterly ignorant of his parentage, having never known father, mother, or home, deficient in intellectual strength, weak in moral capacity, his only recollection of childhood the inmate of an almshouse, his whole life spent among the driftwood of society, he found himself at last a discharged convict after passing through the various stages of almshouse, juvenile reformatory, reform school, jail, and State's prison. How could he be any thing else than a criminal?

The foregoing opinions and illustrations have not been given as any excuse or apology for crime. They have been presented for the purpose of proving that society should show less of vengeance toward the criminal, and not treat him as a monster until it has at least made it possible for him to escape being a criminal.

It is absolutely sure that a certain number of persons in every community will become violators of the law, unless something is done to change their natural course of action. Does society do any thing to interfere? Do those who are looked upon as the moral and intelligent portion of the community make any effort to elevate those in the social scale below them, or do they oftener set a respectable example of evil doing for those below to follow in a more disreputable way? The teaching of law and the actions of those who are supposed to be law-abiding, frequently encourage and stimulate, rather than repress the criminally inclined in their course.

The State sets the example for the murderer by deliberately taking human life. It sets the example for the moonshiner by allowing his neighbor to be a distiller. It convinces the proprietor of the "speak easy" that selling whiskey cannot be wrong, by giving a dozen other men in his ward the privilege of selling it. The law permits gambling on an immense scale, gambling that not only

jeopardizes the capital of those who stake their money on the result, but which affects the necessaries of life for the millions.

Political bribery has become so common as to be the rule, and not the exception, in seeking political promotion, and instead of being punished as a crime is winked at as something smart. A host of political vampires stand ready to bleed wealthy candidates from the time they are nominated until they are elected, and professional politicians, for the purpose of plunder, consent to have only wealthy men nominated.

Many men who claim to be good and wise, go about daily with a revolver in their pocket, a practice that every law-abiding citizen should detest and one that should not be permitted. Carrying a revolver or other deadly weapon should be regarded as *prima-facie* evidence of an evil intention on the part of the one who carries it.

This practice is a most prolific cause of homicide, especially in the South. H. V. Redfield, in his book, "Homicide North and South," says that there were seven hundred and thirty-four homicides in Texas, Kentucky, and South Carolina in 1878. After a careful investigation, he says that forty thousand homicides were committed in the South between 1865 and 1880. Judge Guild, of Tennessee, said in a charge to a grand jury that more than half the homicides grow out of this pernicious, barbarous practice of carrying firearms.

A few years ago a pistol fell from the pocket of the Speaker of the Louisiana House of Representatives and exploded,—a fine example for boys and bullies. As a prominent Texas official stepped from his carriage in front of the State-house his pistol fell on the pavement and sent a bullet whizzing past his ear. The Governor of Tennessee was, a few years ago, making a canvass for re-

election. During a heated discussion with his opponent before a large audience he drew a pistol from his pocket. This of itself should have been sufficient to defeat him, but it is not necessary to say that his political friends would defend his action, or even make affidavit that he never carried a revolver.

The notorious James Robinson, or "Jack Shepherd," as he was better known, was sentenced to the penitentiary in Philadelphia four years ago for stealing. Before sentence was passed the prisoner made a remarkable address, reviewing his life in and out of prison. At the conclusion of his remarks the judge said: "When your term expires, it is to be hoped, after what you have said, that you will lead a better life. All you have to do is to bear it patiently." "Yes," said Shepherd, "bear it patiently. I worked three years in your prison making shoes, and I know as little of shoemaking as I do of watchmaking. They taught me in your prison to be dishonest. My principal work was to paste leather and pasteboard together, to make a thick sole to impose on the public. The man having the contract was a Christian, and at the time I called his attention to it he was foreman of the grand jury. They sent me to prison to make me honest, and this is the way they do it."

Shepherd may not have been suffering any pangs of conscience on account of his employer's dishonesty, but his statement shows that he was taking notice of the means used to reform men and make them honest.

Only a few days ago, Owen McNally stood before Judge White, of Pittsburgh, to receive his sentence after being convicted of larceny. On being asked what he had to say, he made the following remarkable reply:

"Your Honor, while my counsel and friends have done the best they could to prove me a kleptomaniac, I differ

from the stand they take, and will try to give my reasons for thinking so. I was not born a thief. My parents were as honest people as ever lived, and I would not have it said that my disposition for stealing was inherited. It has been greatly due to my associates. My first step downward was when I first went to Morganza for pilfering some little things. There my associates taught me to steal and pilfer with expertness. When I got out I followed the same course, pilfering little things, and was soon sent to the workhouse. There I learned lessons in depravity of which I had never dreamed. When I got out I followed well my teachings, and was picked up again and sentenced by this court to six years in the penitentiary. There I received my crowning lesson and stepped out a graduated thief, had such been my inclinations. But I wanted to do better, and started to find work at the trade of shoemaker, which I learned in the penitentiary. Wherever I applied and told where I learned my trade, I was refused work, until at last I secured employment at four dollars per week. I kept that work for five months, though it scarcely furnished my necessities. After that how could I be honest? It is not easy to find work, and I drifted back into my old habits, and here I am for my sentence. I committed these larcenies because I wanted something to eat. For four days before I committed the crimes I walked the streets with scarcely a bite. I feel now that I ought to get along honestly, and will try when I get out to do so. I have explained to you all I know of myself."

There is food for serious thought in this convict's speech. It indicates that some of our reformatories fail to reform, and it also shows the necessity of having an oversight over the ex-convict until he has a chance at least to earn an honest livelihood. This will be further discussed in another chapter.

Less than ten years ago the Governor of Missouri offered a reward of five thousand dollars for the body, dead or alive, of Jesse James, one of his subjects, whom he was bound to protect in his life, liberty, and property, unless taken away by due process of law. As might be expected, there were men in Missouri who would burn, steal, or kill for money. Two brothers, Bob and Charles Ford, who had been accomplices of James, and who were his superiors in depravity, but not his equals in courage, concluded to play the part of Judas Iscariot for the Governor's reward. They conspired, not to capture their comrade, but to kill him. After watching several weeks for an opportunity, all the time professing to be his friends, Bob Ford raised his gun, when James' back was turned, and sent a ball crashing into his brain.

Can any one imagine a more cold-blooded murder? It was worse than malicious. It was the work of a treacherous assassin, bribed to kill.

Could Jesse James, with all his evil deeds upon his head, have been hired to shoot down a friend?

Notwithstanding the fact that the Constitution of the United States declares that no citizen shall be deprived of life, liberty, or property without due process of law, yet the governor of a great State hires a cut-throat to shoot one of his subjects in the back.

Who can doubt that this one example had a more demoralizing influence on the criminal classes of the country than would have a dozen ordinary murders in every State in the Union?

The newspapers, of course, each had its own opinion or a borrowed one to give of the affair, and hundreds of them were so forgetful of their duty as public teachers, so regardless of the dangerous lesson presented to the vicious element of society, so lost to the great principles

outraged in the case, that they attempted to justify the action of the Governor on the ground of self-defence. Some of the leading papers called the killing by its right name, and said that hiring one desperado to kill another is murder. The New York *World*, in reference to the case, said :

" The civilization of Missouri is more compromised by the death of James than by his life, in that the Governor of his own notion licensed a citizen to commit murder, and placed himself in the position of an accessory before the fact.

" The murder of James, which was committed by two men who had for some months been making use of his hospitality, while watching their chance to kill him, was at least as treacherous and cold-blooded as any murder which he himself ever committed, and for this last murder the Governor has made the whole State responsible. It is not in the least likely that either the Governor or his ' pals ' will be punished. The excuse that it was a public necessity to be rid of James, and that he could have been got rid of in no other way, will doubtless be accepted by any Missouri jury. But the acquittal will leave the State in a worse plight than ever, since it will be a confession that the laws of Missouri cannot be vindicated against a single outlaw, and that the only way in which a Missourian murderer can be punished is to hire another murderer to kill him."

The Pittsburgh *Commercial Gazette* said : " The report of the cruel and cowardly butchery of Jesse James, the notorious train robber and desperado, reads like a tragic romance pertaining to an age of lawlessness and barbarism, rather than the description of an occurrence which happened in a populous city of one of the principal States of the Union. Can the act of the Governor be justified on

any principle of law or necessity? Surely not. If Missouri has a law by which the Executive may outlaw a citizen by placing a price on his head, it is in that respect so far behind every other State in the Union. What was the necessity for the assassination? It may be taken for granted that the whole country, and especially the States which formed the wide field of the bandit's operations, were interested in having his career brought to an end, but that could have been accomplished without making the Governor of Missouri a party to his murder."

Take still one more case, where those who should have stood up as strict defenders of law and justice allowed their revengeful feelings to run away with their judgment. A leading daily in one of our large cities, when the Guiteau trial was in progress, contained the following: "A thrill of joy pervaded the hearts of our citizens when the wires on Saturday bore to our ears the welcome intelligence that Guiteau had been shot. A subscription paper was started to make up a national purse of one hundred thousand dollars for the hand that had fired the fatal bullet. But the joy was quickly checked by the later intelligence that the assassin had escaped with only a scratch, and that he was still permitted to breathe the vital air. Every countenance wore a hue of disappointment that the retributive pistol had again been cheated of its due. Now we admit that these sentiments are barbarous, that they are incongruous with loyalty to law and respect to authority. We merely state a fact to indicate the temper of the public, however blameworthy such a spirit may be."

It must be said for the intelligence of this editor that he recognized the lawlessness of the act, but on the contrary there were hundreds who had so little respect for law as to applaud the action, and urge their readers to

contribute money for "Betty and the Baby," who were objects of more interest than the assassinated President.

What a way for public teachers to show the sanctity of life or respect for law! To applaud the assassin who would shoot a defenceless prisoner, and raise a purse to reward him for his crime!

Are we to understand that the lives of only the good and great are worthy of protection? Is it only the useful who should be guarded against the attacks of the murderer? If government is expected to take care only of the good, the useful, and the virtuous, the unfortunate imbecile should be put to death without delay, and incurable lunatics should be strangled as soon as some expert in lunacy can be found to declare them beyond hope of recovery.

Those with criminal instincts are not apt at drawing fine distinctions, and the wrongs which society seems to sanction, whether gambling, bribery, killing, or whiskey selling, will meet with but little moral restraint where they are contemplated by the individual whose ways incline to evil.

CHAPTER IV.

THE BIBLE AND THE DEATH PENALTY.

Thou shalt not kill.—*Bible.*

It has been but a few years since the arguments in favor of the death penalty were drawn entirely from the Pentateuch. Every man's reason began with "Whoso." The Bible advocate was willing to rest his case on the single verse: "Whoso sheddeth man's blood by man shall his blood be shed." Dr. Cheever, for years the greatest leader on that side of the question, says, in substance, that this verse covers the case and settles the controversy.

There is another class of persons who do not feel bound by the Mosaic code, but who are in love with the example of hanging, and begin their argument with "if." "If we abolish the death penalty murder will increase." Here we have the only two arguments or reasons that are urged for retaining the punishment of death.

Were it not for the large number of good people who pin their faith to the Jewish law, this branch of the subject might be passed without discussion; for I take it that the question should be decided on the relation which capital punishment bears to society at the present time, aside from any consideration as to what was thought of it, or what was its effect on society, three or four thousand years ago. To pass it thus, however, would

be *prima-facie* evidence to many people that the Bible argument has not been answered for the reason that it is unanswerable.

Most men are willing to admit that the world does move, that the race has made great progress in every direction, and that laws laid down for a particular people in a remote age might not be the best for a people in a more advanced state of civilization. Spencer says that laws should be fashioned unto the manners and customs of the people for whom they are meant. That is reasonable doctrine; for a law that is well adapted to one people may be entirely unsuited to another. The Jews were a peculiar people, their government was peculiar and may have been intended to accomplish peculiar ends. Both their criminal and ceremonial codes would be as unsuited to any civilized nation on the globe at the present time as would the Roman law of the Twelve Tables.

What idea would an intelligent man gather from reading their criminal and ceremonial law, supposing he had never heard of the Jews or of the Bible? Would he conclude that such rules and regulations were intended for a highly enlightened people; or would his judgment lead him to the inevitable conclusion that the people to which such laws were adapted were not far out of the wilds of barbarism. Suppose he should happen to turn to Exodus xxix., where the ceremony of consecrating the priests is described. It tells how the rams and bull are to be slain; how the blood is to be poured round the altar and sprinkled on their clothes, with a little to be put on the tip of their right ear, their right thumb, and the great toe of their right foot; how the fat of the animals was to be burned as a burnt-offering; how some was used as a heave-offering, some as a wave-offering, etc., etc.

One thing or the other is true beyond doubt; either

that our Lord is not the Lord of Aaron and his people, or Aaron and his people were as different from the American people as shadow is different from sunshine. The blood that seemed so essential to them, and the sweet-smelling savor of burning flesh, would now be disgusting to a person of any refinement. If any one should suggest that our God would be pleased to have us perform any such ceremonies as those described in the Pentateuch, he would be properly set down as a fit subject for the nearest lunatic asylum.

Suppose we found our criminal jurisprudence on the Mosaic code; what crimes or offences would be punishable with death? Here is a list which perhaps includes most of them; murder, kidnapping, eating leavened bread during the Passover, allowing a cross ox to kill a person, witchcraft, bestiality, idolatry, oppression of widows and orphans, making holy ointment, violation of the Sabbath, striking father or mother, sodomy, eating the flesh of the peace-offerings with uncleanliness, eating the fat of offered beasts, eating any manner of blood, offering children to Moloch, eating a sacrifice of peace-offering, screening the idolator, going after familiar spirits, adultery, incest, cursing parent, unchastity in a priest's daughter, blasphemy, stranger coming near the tabernacle, coming near the priests' office, usurping sacerdotal functions, forbearing to keep Passover, despising the Word of the Lord, false pretence to the character of a divine messenger, uncleanness, opposition to the decree of the highest judicial authority, unchastity before marriage when charged by a husband.

Highway robbery was not punishable with death, indicating that making holy ointment in an unholy manner was, according to Jewish law, a worse crime than robbery. No matter how great any man's respect for the Old

Testament may be, the most he can say for the ceremonial and criminal law of the Hebrews is that it was adapted to men in a very crude condition, who were making their first advances in the rudiments of moral and religious truth; that it taught them as much only as they were prepared to receive, with a promise of something better to come after.

Solon, on being asked if he had given the Athenians the best laws, replied: "I have given them the best they are able to bear."

Montesquieu says: "When Divine Wisdom said to the Jews, 'I have given you precepts which are not good,' it signified that they had only a relative goodness, which is the sponge that wipes out all the difficulties in the law of Moses."

It seems strange that ministers of the Gospel should overlook the principles so clearly laid down in the New Testament, and go back two thousand years to find a law for punishing the crime of murder. Ministers are referred to for the reason that they are, with few honorable exceptions, in favor of the death penalty, and for the stronger reason that we naturally should expect them to favor the law of mercy rather than that of vengeance. The leading advocates of the punishment of death, in the United States, have been ministers, and it is owing to their influence more than to any other one cause, except prejudice, that capital punishment has been able to run so far into civilization.

A leading newspaper recently contained a column of short personal interviews with ministers on this subject; and, without exception, they were in favor of some method of capital punishment, and nearly all of them, though flatly contradicted by the experience of the civilized world, recommended it as an effectual preventive of murder.

Ministers admit that the ceremonial law of the Jews is no longer binding, and that the criminal code has no force except in the case of murder. They insist that God's covenant with Noah, in which occurs the verse, "Whoso sheddeth man's blood by man shall his blood be shed," is binding for all time and upon all nations. They do not understand that it is repealed both in the language and the spirit of the New Testament. If they believe as firmly as they pretend that killing the murderer is pleasing to God, and a duty sacredly enjoined upon man, they should act as executioners. In fact, there should be a scramble among them to see which could secure the coveted privilege of performing the duties of the holy office. They certainly should not hesitate to pull the string, or cut the rope, or touch the electric button that sends the soul of a murderer to the answering bar of God.

It should seem eminently proper to place murderers under the care of ministers who believe in life for life to be hanged or "electrocuted" whenever, in their opinion, their victims are properly prepared to enter the eternal world. Even a minister would hardly consider it a proper thing to cut off a soul in its sins, to suffer endless æons of torment; and it should be a part of his duties to prepare these unfortunate creatures to meet the God who is supposed to harbor such feelings of vengeance against them that nothing but taking their lives will appease His wrath. They admit, however, that the vilest sinner may repent and be saved, and many murderers, some of the very worst too, have professed penitence and a change of heart, and have received passports to heaven from the ministers who attended them in their last hour. Ministers cannot tolerate impertinence, so it would not be proper to suggest that a being, prepared to sit at the right hand of the Father in glory throughout eternity might be safely

entrusted to a convict's prison for the short term of his natural life.

Hair-splitting is usually not a profitable employment, but it seems necessary to resort to it sometimes in determining our duty as laid down in the Hebraic law. Hebrew scholars say that the verse on which the argument for the death penalty is based will admit of a different rendering from the one given it in the accepted version.

No Bible previous to the fifth century contains the words "by man," in this verse. "Scripture itself has been interpolated to suit the purposes of the state." These words are not found in the Septuagint or in the Samaritan versions, in Wyckliffe's Bible or in the Vulgate. The Spanish, Italian, and French versions omit them. Pascal and Swedenborg endorse the omission, and Calvin says the translation that renders the Hebrew text "by man" is a forced construction. It is also agreed that "will" can be used as properly as "shall."

The verse, then, would read: "Whoso sheddeth man's blood his blood will be shed." Even the use of "shall" makes the verse simply a prophecy, and not a command. Just as we have illustrated in the verse, "All they that take the sword shall perish by the sword." This is not understood as a command to government to kill all soldiers, but means that those who undertake to kill will very likely be killed, that a violent life will perhaps end by a violent death. Likewise as to the passage, "Bloody and deceitful men shall not live out half their days," and also with the one in question, the man who shed his fellow's blood would be likely to find the avenger on his track.

Mr. Rantoul says that the Hebrew participle translated "whoso sheddeth" answers to the English word "shedding," and the passage might with more propriety be translated, "whatsoever sheddeth man's blood, by man

shall or will its blood be shed," or leaving out the words by man, "whatsoever sheddeth man's blood, its blood shall be shed." This certainly makes better sense than the common rendering, when taken with what follows: "for in the image of God made he man." It is not consistent to say that a murderer shall be killed for the reason that man was made in the image of God, because the murderer is a man. He who takes the life of a murderer has also destroyed an image of God, and, as this covenant with Noah makes no exceptions, how shall he in turn escape the same penalty? Where shall the matter of killing end? No exceptions are made for the insane, for the man who kills by accident, or the one who kills in self-defence.

Wendell Phillips says: "Call this equivocal verse in Genesis a warrant from the Almighty! Why, a county sheriff would not arrest a sheep thief on such a warrant!"

Why should this text be picked out when there are others the translation of which leaves no doubt as to what the Mosaic law means?

For example, "He that killeth a man shall surely be put to death." There is no chance to quibble over the translation of this. It is plain, strong, and unequivocal. Why do not Dr. Cheever and his followers quote such passages to prove their position? Simply, because they would be proving too much. The same chapter, and almost the same verse, says: "He that blasphemeth the name of the Lord shall surely be put to death." To prove that murder should be punished with death, would prove that thirty other offences should be punished in like manner; hence theologians come down about a thousand years later and decide to stand or fall on God's covenant with Noah.

Would it not be appropriate to ask how this covenant

was regarded in early days? If the command on which our friends base their argument was given by the Almighty as a perpetual rule of action, those who lived about the time it was given would be likely to observe it carefully.

David was a murderer, and, if the law of blood for blood had been carried out in his case, what would have become of the plan of redemption, for Christ was of the lineage of David? The record says that the Lord was displeased with David on account of his course toward Uriah, but as "he died in a good old age full of days, riches, and honor," the covenant with Noah was overlooked, if it means that the man who kills another must die for the crime.

Simeon and Levi murdered Shechem and his people in a most atrocious manner. Was the patriarch and ruler, Jacob, ignorant of this covenant with Noah, or did he wilfully disobey it in not bringing summary vengeance on Simeon and Levi?

In the Mosaic code the law permitted the avenger of murder to have full scope, as is the case among the Indians. No judge or jury was called to decide as to the guilt or innocence of the accused. The nearest of kin was the judge, jury, and executioner. If we are to carry out the law in its spirit, that life must go for life, why not oblige ourselves to use the form and means of revenge as well. If the law of retaliation was given to the Hebrews because they had no courts by which to find bad men guilty, and no prisons in which to confine those who might have been convicted, these objections to a more reasonable law no longer exist; and may not our advantages in this respect justify us in abolishing the old law both in spirit and in form?

We are a different people entirely. Our manners, our customs, our civilization, all are as different from those of

Israel as day is different from night. We are not a wandering tribe, just out of Egypt, on our way through the wilderness; and yet there are those who seem to think that a code given over three thousand years ago to such a people ought to fit the present condition of society.

The Hebrews may have required sanguinary laws because they were a "stiff-necked people" and hard to control. After six hundred thousand had fallen in the wilderness for their impenitence, their sons grew up sinful men and took no warning from the plagues that swept their fathers from the earth. They had been kept in abject slavery and their condition was, perhaps, worse than that of the present hordes of savages in the wilds of Africa. Moses himself bids us look to a higher prophet.

The violation of every commandment except one was punishable with death. That forbidding covetousness was exempt, perhaps for the reason that the guilt of violating the command could not well be ascertained until the passion became so strong as to result in theft, the punishment then, in some cases, being death.

The cases of Cain, Moses, and Lamech, who committed murder, have caused Bible advocates of capital punishment great annoyance. If the Lord had executed summary vengeance on them for their crimes, He would have saved ministers a great deal of trouble, and much explanation that does not explain. Peculiar logic has been used to excuse the Almighty for His non-performance of duty in these cases.

Cain slew his brother for a very trivial cause, and though God was judge, jury, and executioner, he spared Cain and threatened seven-fold vengeance on any one who would slay him. Dr. Cheever seems to doubt God's wisdom in dealing with Cain's case. He says: "God spared Cain, and the consequence was that every murderer felt himself

secure." In speaking of Lamech, who killed a young man, the Doctor says : " And God, we may suppose, was willing to permit the experiment of kindness, in order to demonstrate more fully the monstrous wickedness of man."

Perhaps God might be willing to allow the American people to make the same experiment, if he be a God of experiments as the Doctor would have us believe.

In 1880, being somewhat interested in the subject of the death penalty, I addressed a letter to the late Judge Jeremiah S. Black, of York, Penn., one of the ablest jurists the country has produced, a man of spotless integrity and an orthodox church member. This is his reply ;

YORK, PA., March 8, 1880.

DEAR SIR :

You seem to desire an essay on the subject of capital punishment. I have no time to write one and don't feel as if I could do it under the circumstances. I think it is a very proper subject to be fully discussed on both sides. You do not tell me which side you are on and you are indifferent whether I help or hinder you in sustaining your conclusions. That 's fair and manly, but it would be awkward for me to write without knowing whether I had you for an aid or an opponent. Your object no doubt is to find all the material on both sides and use it for the purpose of forming a just judgment.

A near neighbor of mine, the Rev. Mr. Spaulding, has written a small pamphlet of which he gave me a copy not long ago. It is very able, and his theological view of the matter is presented, I think, with irresistible force. I cannot do you a greater service than by calling your attention to this little work, and I will have a copy sent you as soon as I can.

Yours truly,

J. S. BLACK.

My only object in calling attention to this letter, and to the pamphlet to which Mr. Black refers, is to show that an argument drawn from the Scriptures is frequently taken

without question, or for far more than it is worth, simply because it is assumed to be a Bible argument. Had this pamphlet been a legal argument, and five times as strong as it is, instead of calling it "irresistible," Mr. Black would have pointed out its weakness, torn the pretended argument to shreds, and exposed it to such ridicule as would have made the author wish it had never entered his head to write a pamphlet.

The Rev. Mr. Spaulding, D.D., begins his pamphlet with these words: "The alarming increase of murders and the growing insecurity of human life are subjects of general comment and call for consideration as to the cause and remedy. The columns of the daily papers teem with accounts of most atrocious crime in taking away human life. The murderer of to-day is bold and defiant."

Here is a confession in his very first paragraph that the law of blood for blood, which has been in force ever since the Commonwealth was established, is a failure. The Doctor further along says: "The offence of the murderer is something more than merely taking human life. It is of the nature of Deicide. The murderer strikes at God. He destroys an image of God, for in the image of God made He man."

Is the murderer not a man? In whose image was he made, and does not the executioner's work have a tendency to destroy or interfere with that image?

In answer to the argument that society might be safer without the example of putting men to death, he says: "If God has made a law and never repealed it, men have no alternative but to go on and enforce it; and it will probably be as effective as any law they can make."

His treatment of Cain's case is more unique, even, than Dr. Cheever's. He says: "The Lord alone, who had the right and could do it, the other one being dead, remitted

the penalty in his case and set a mark upon him that he should be the one murderer of those days that should not have the penalty of death over him: for let every one notice, God made no enactment that murderers should not die for their crimes. This was *special legislation* in the matter of Cain."

Even the italics are the Doctor's. Special legislation is certainly original, and the Doctor should have taken out a copyright on the expression. Such legislation is prohibited even by the constitution of Pennsylvania, and as God is no respecter of persons, it was pretty generally supposed, until this discovery of Dr. Spaulding, that His statutes were general.

David's case puzzles the good Doctor considerably, and his crowning effort is made in reconciling that with the "whoso" text.

He says: "David expected the penalty to be enforced and said, 'I have sinned against the Lord.' Nathan said unto David: 'The Lord also hath put away thy sin: thou shalt not die.' And now read on. 'Howbeit because of this deed thou hast given great occasion to the enemies of the Lord to blaspheme, the child that is born of thee shall surely die.'"

Then the Doctor exclaims triumphantly: "Mark this, the very words of the law, *shall surely die.* So somebody died for that murder, and the very next chapter gives an account of the ruin of a sister and the death by murder of her brother."

Is comment necessary? A man who can believe that David's crime was justly avenged by the death of his innocent child, by the debauchery of his daughter, and the murder of his son, would advocate the slaughter of the murderer's innocent wife and children, in case the guilty husband and father should escape.

"Thou shalt not kill" was the edict given amid the thunders of Sinai, and it is more of a command than God's covenant with Noah. It is binding on nations as well as on individuals, for there are no exceptions provided. What right have we to make any? Have we any more right to add a condition to this commandment than we have to any of the other nine?

Can the commandment, "Thou shalt not steal," be violated by the state in certain cases and no wrong be done thereby? Can the representative of a government bear false witness on special occasions, or take the name of God in vain, and not violate the spirit as well as the letter of the Decalogue?

The principles of the Jewish law of penal jurisprudence are so diametrically opposed to the spirit of Christianity that there can be no compromise between them. Either Christ's command when He says, "Ye have heard that it hath been said an eye for an eye and a tooth for a tooth, but I say unto you, that ye resist not evil," must prevail, or the very thing he forbids must be acknowledged as right. Moses put his enemies to death, Christ died for his; Moses was sinful, Christ was sinless; Moses insisted on sacrifice, Christ required mercy; Moses was a law-giver and teacher for a single nation, Christ gave a Gospel for the world.

The Hebraistic law of the death penalty is as unsuited to the enlightened world as their law which commands circumcision under penalty of death. Might we not just as well adopt the Jewish law of mayhem and give wound for wound, as to follow the other part which prescribes life for life? The man who can make a valid defence of capital punishment from the Scripture can make a much stronger defence for polygamy, which was permitted by the patriarchs, recognized by the law of Moses, practised

in the days of Christ and the Apostles and not forbidden by them. There is no more reason to go back beyond the New Testament for a criminal code than there is to go back for a ritual of ceremonies to be observed in worship. If one is outgrown by civilization, so is the other.

God himself said at the baptism of Christ, "This is my beloved Son in whom I am well pleased." Then at the transfiguration He speaks again from heaven, "Hear ye him." Not hear Moses, or God's covenant with Noah, but hear Christ; and when we hear Him condemn the doctrine of an eye for an eye, tooth for tooth, and life for life, shall we ignore His teaching and go back to Moses as our authority for the law of retaliation?

What does this mean, from Hebrews, in speaking of Christ? "He hath obtained a more excellent ministry, by how much, also, he is the mediator of a better covenant, which was established on better promises.

"For if the first covenant had been faultless then should no place have been found for the second. In that he saith a new covenant, he hath made the first old. Now that which is old is ready to vanish away."

The Old Testament was never intended as a law for the Gentiles and was never preached to them. Before Christ's death, when the Old Testament was in force, what was the command to the disciples as they went out to preach? "Go not into the way of the Gentiles and into any city of the Samaritans enter ye not; but go rather to the lost sheep of the house of Israel." After His death, when the New Testament was in force, what was the command? "Go ye, therefore, and teach all nations, baptizing them in the name of the Father and of the Son and of the Holy Ghost."

That the Old Testament was the law until Christ's death is evident from the New Testament itself. "For

where a testament is there must also of necessity be the death of the testator. For a testament is of force after men are dead, otherwise it is of no strength at all while the testator liveth."

Why God thought it necessary to give a New Testament is not our business to inquire; but that He did so is acknowledged by the capital-punishment advocates themselves, who still insist on going back to the old covenant for their law.

"But their minds were blinded, for until this day remaineth the same vail untaken away in the reading of the Old Testament, which vail is done away in Christ, but even unto this day when Moses is read the vail is upon their heart."

I append an apt extract from the Rochester (N. Y.) *Democrat and Chronicle*, to which my attention has been called by a minister since the manuscript was in the hands of the publishers.

"When the pulpit becomes enlisted against capital punishment, it will come to an end. The taking of life by the State has long been defended on Scriptural grounds, but many clergymen are coming to reconsider those grounds and declare there is no sufficient warrant in Scripture for the taking of life as a punishment. The Toronto *Globe* publishes in full a very able sermon by Rev. Dr. Stafford, of the Sherbourne Street Methodist Church, Toronto, upon the subject. His effort was undoubtedly prompted by the Birchall execution. He took for his text the commandment, 'Thou shalt not kill.' Dr. Stafford carefully considers all of the arguments derived from other portions of the Old Testament in favor of judicial killing, and concludes that none of the texts usually quoted had more than an immediate local application in the process of development of the Jews.

Dr. Stafford says of the commandment 'Thou shalt not kill':

"'This is a positive law, and no exception is made to it. It neither contains nor implies an exception even in favor of the government of nations. The taking of life as a judicial penalty for crime is a violation of this statute, unless something more than men's own inferences can be brought forward in support of the act. Does the Bible anywhere else make a clear exception to this law?'

"After carefully considering the law of Moses and the circumstances which called it forth, after showing that this law was to stop indiscriminate slaying in accordance with savage customs, Dr. Stafford says:

"'If Jesus had not given his thought on this law of Moses, as found in the Sermon on the Mount, if he had not set up a standard immeasurably higher, then we might pretend that this law of Moses for the punishment of murder was a statute for all generations and all forms of civilization. But his teaching is actually as much, or more, in advance of Moses' law as that was in advance of the ideas and practices of men when it was given. But this law of Moses is all there is in the Bible which can be pleaded as an exception to the commandment, "Thou shalt not kill." Jesus did enforce this law against killing, but he did not directly or indirectly recognize any exception to it.'

"We have made these quotations to show that there is progress in the discussion of capital punishment from a theological standpoint. Many of our readers remember the time when slavery was supported as a divine institution. Abundant Scriptural authority could be found for slavery, but we believe that no clergymen are to-day upholding slavery on Scriptural or any other grounds."

CHAPTER V.

TRIAL BY JURY.

> The jury, passing on the prisoner's life,
> May, in the sworn twelve, have a thief or two
> Guiltier than him they try.
>
> SHAKESPEARE.

THOSE who believe that capital punishment is a proper penalty to be inflicted on persons guilty of certain crimes should not insist on its enforcement so long as candidates for the gallows are to be tried by jury. It is proverbial that only the Almighty can have any opinion, after hearing a case tried, as to what the verdict of the jury will be. When lenity might be expected, severity may characterize the verdict; and when acquittal might reasonably be looked for, murder in the first degree may be pronounced.

In some parts of the United States the man who kills another stands at least nine chances in ten of escaping punishment; but if the charge be horse-stealing he is certain to be found guilty by the jury, unless a mob breaks into the jail and hangs him before the formality of a trial.

It is generally supposed that juries are more lenient toward criminals than judges are, but Judge Thomas says that in every case coming under his observation in the indictment of Chinamen in the Territories the accused have waived a trial by jury. This would indicate what is generally understood, that juries, as they average, are

more likely to be influenced by prejudice and improper considerations than judges, who are men of more experience and culture, and possess broader views of things in general.

Judge Thomas further says: "I believe it is fair to say that not one verdict in twenty is founded entirely upon the testimony and the judge's charge. Religious, political, or national bias, a neighborhood sympathy, the eloquence of a lawyer, a newspaper article, the use of dice, or a game of cards has frequently decided a case involving millions of dollars or imprisonment for years. In one of the most atrocious crimes tried before me the prisoner was acquitted, notwithstanding that the evidence was direct and overwhelming. This result was due, I afterward learned, to nationality. The assassin and several of the jurors belonged to a nation noted for refinement and culture rather than for brutal and bloodthirsty proclivities."

It is not by any means the most learned and honest lawyer that usually succeeds with a jury. It is rather he who can tell what he does not know as well as what he does know, in a pleasing, ready, and insinuating manner. In many instances advocates have been for the plaintiff and a few days later for the defendant in another case with precisely the same principles and facts involved, and yet have won both cases, sometimes before the same jury.

The average juror is entirely unaccustomed to weighing evidence, and is incapable of reading human nature well enough to distinguish between the evidence of the witness who testifies falsely in a fluent manner, and who undergoes cross-examination coolly, and the true statements of the bashful, brow-beaten witness who is honest and truthful, but whose embarrassment is taken as an evidence of perjury.

In a majority of murder cases the verdict depends

greatly on the influence and money that the defendant can command. Perhaps rich men do not commit murder; it is certain they do not hang. It is proverbial that justice, or at least punishment, travels with much greater celerity when dealing with the poor and neglected than when concerned with the wealthy and influential. If society expects prompt punishment to be inflicted upon those who take human life, it should see to it that none but the poor and despised commit murder.

Two cases will be given, not because they are of any special importance, but simply because they serve to illustrate what other cases have illustrated in nearly every county of the United States. These two trials took place before the same judge, and in one of the most intelligent and law-abiding counties of Pennsylvania. They are not given on hearsay evidence, but the writer knows the facts in both cases.

On the 16th day of January, 1886, James Hilands, an ignorant young man who was left without a home when a child, was working for a neighbor, John Kirch. The day was cold and stormy, and Hilands was wet and chilled as he sat down at Kirch's fire in the evening. Kirch was a rough man, of a quarrelsome disposition, and after supper he began to abuse Hilands for breaking some trifling thing in the afternoon. He had hard cider on the table, of which both had drunk until they were considerably under its influence. Finally they got to quarrelling, clinched, and fell to the floor in a drunken scuffle. Mrs. Kirch was frightened, and went half a mile for a neighbor to assist in keeping the peace. The neighbor went with her and found the men still on the floor, Kirch holding Hilands down. The neighbor told him to let Hilands up, and he did so, at the same time ordering him to leave the house. Hilands went out, but soon returned, opened the door

and asked the neighbor if he was going home. Kirch, with an oath, again ordered him to leave.

Hilands closed the door and walked off the porch, but soon returned with an axe that he picked up in the yard, and gave the door a blow that nearly knocked it from its hinges. Kirch grabbed a stick of fire-wood, ran to the door and jerked it open, when another blow from the axe struck him on the neck, and in two minutes he was a corpse.

Hilands was brought to trial, and though he had been made drunk on the liquor of his victim; though he was in hot blood after a scuffle lasting more than half an hour; and though there was good reason to doubt whether he had seen Kirch when he struck the blow, but merely struck again at the door as his victim jerked it open and caught the stroke,—yet all this counted as nothing. On the 14th of March the trial was finished and the case given to the jury. After prayer on the part of the foreman, asking the Lord to give them a little more than their usual allowance of wisdom and courage, and after one of the jurors, who had at one time lived near Hilands, told how bad a man he was, the six jurors who had gone out in favor of a verdict of manslaughter came over, and all twelve said that Hilands was guilty of murder in the first degree.

He was ably defended by good attorneys, but there was no church sentiment, no secret-society influence, no political considerations, no influential friends to create any sympathy in his favor. People seemed to clamor for blood, and the man who ventured to express the opinion that the verdict was an unjust one was accused of holding a morbid sympathy for murderers. Hilands was sentenced to die, but was afterward released by an appeal to the Supreme Court on a writ of error, and this, no doubt,

was the only thing that kept James Hilands from furnishing Mercer County's first example of judicial murder.

On the evening of January 15, 1888, William Clark, of Sharon, was carried to his home drunk, and laid on the floor of his bedroom. His wife, becoming tired of the company of a sleeping drunkard, concluded to call on her sister, who lived a few doors away, and whom Clark had forbidden her to visit. After she had been there some time, Clark came in dressed in his night-clothes, and, drawing a pistol, shot his sister-in-law dead. He was arrested and put in jail. He had considerable party influence with a certain class among whom higher-toned politicians do not care to mingle. He had been a soldier and belonged to a secret society or two, and, besides, he had a few thousand dollars that he was willing to give to save his neck.

Keen lawyers were engaged to defend him, and they commenced at the beginning. They lost no time in manufacturing public sentiment in his favor as their first duty toward their client. The newspapers gave a very gentle account of the killing, and when the trial came, the jury was very carefully selected, especially on one side. Prominent men of his town testified to his good character and reputation, when it was notorious that he was ugly, quarrelsome, and dangerous when drunk, and that was not infrequently. The most learned physician of the town gave it as his opinion that a man, under the hypothetical case submitted to him, would not be responsible for his acts; and under the plea of emotional insanity William Clark walked out of court legally innocent of any crime.

Dr. Hammond, one of the highest authorities on insanity in its relation to criminal jurisprudence, says: "The doctrine that an individual can be entirely sane immediately before and after any particular act, and yet insane at the

instant the act was committed, is contrary to every principle of sound psychological science."

Here was a man, sane when he got drunk; sane enough to get up and dress for bed; and when he found that his wife was not there, he was sane enough to know that a loaded pistol would answer his purpose better than a prayer-book. He was sane, too, immediately after the shooting, and has been ever since.

Besides, the law plainly declares that though a man is entirely unconscious of his act when he kills under the influence of intoxication, his irresponsible condition cannot be taken as an excuse for his act, further than to lower the crime from first- to second-degree murder.

These two cases are fairly illustrative of justice as dispensed under the jury system everywhere, and the question of life and death is too important to place so much at the hands of chance. It is largely the jury that makes Mrs. Partington's definition of a court an apt one: "Court is a place where justice is judiciously dispensed with."

The strong point in favor of the jury system is its great age. It is as old as history, and on this account, more than on any other, it is regarded as the best plan that can be devised. There is a growing feeling, however, against it, and the cases settled by arbitration in different forms are steadily gaining in numbers.

A Pennsylvania jury, a few years ago, awarded the plaintiff two hundred and fifty dollars as the value of a son who was drowned by the carelessness of the town authorities, while a short time afterward, another jury named ten thousand dollars as the amount a man should receive for the loss of a foot, caused by a railroad company.

The Conneautville, Pa., *Courier* some years ago gave the following:

"People who are at all inclined to grumble at the kind of justice usually meted out on a trial by jury, have an excellent example on which to found an argument in two cases brought before our court on Friday. The suits were brought to obtain judgments on two notes given by two farmers in Hayfield Township, in payment for lightning-rods, but sold by the lightning-rod man to a third party, who brought the suits. The cases were tried separately with two sets of jurors, but came up for trial in succession, the second case being called immediately after the jury in the first had retired. The same counsel appeared on either side, the same testimony was offered, and Judge Lowrie charged the juries the same. Both cases were finished the same afternoon, and the juries brought in their verdicts the next morning, one finding for the plaintiff and the other for the defendant."

If the cases had been murder trials, two lives in the balance instead of two notes, the uncertain and haphazard result would have been the same. Who will say that life should be at the disposal of such tribunals of chance?

The same is true of juries everywhere, and must be from the very nature of the case. The jury is, in many States of the Union, as well as in England, judge of the law as well as of the facts, and when twelve men, all of whom may be ignorant, and some of whom are likely to be dishonest, attempt to decide questions that should be settled only by men of known ability, intelligence, and integrity, what may we not expect in the way of blunders and errors, both innocent and wilful?

A case that attracted wide attention was tried recently in England, which illustrates the fallibility of the jury system. A man named Henry Bowles, a gardener, fifty years of age, who had always borne the best reputation, was tried for the murder of his wife and son by poison.

He was particularly fond of his son and lived peaceably with his wife, but they took sick suddenly and died, as was thought at the time, from eating poisonous toadstools. But, on examination, it was claimed that traces of arsenic were found in their stomachs. The trial took place before Justice Charles of the Old Bailey, and the case for the Crown was exceedingly weak. No motive could be shown for the murder, nor was it shown that the defendant had ever purchased any poison. The prosecution intimated that he might want to marry again, but it did not show that he was courting or maintaining improper relations with any other woman. So weak was the case that the defendant's counsel did not call a single witness, though he had a dozen in court, but contented himself with simply pointing out that the prosecution had failed to make a case.

Justice Charles in summing up took practically the same ground. He told the jury plainly that there was nothing in the case but mere suspicion, that guilt had not been brought home, and that the prisoner was entitled to all reasonable doubt. He dwelt particularly on the absence of motive. The jury was out three hours, and on being called into court the foreman stated that they were equally divided, and there was not the slightest chance of an agreement being reached.

In rather heated language the Judge charged them again and sent them back. In two hours they returned with a verdict of wilful murder.

His Lordship was so agitated by the situation that he could scarcely control himself while, as the law necessitated, he put on the black cap and passed sentence of death. Such a thing as a re-trial of a murder case, it is said, had never been known in England, but the Judge communicated with the Home Secretary, urging that a precedent be established, declaring that it would simply

be murder to hang a man on the evidence adduced in the Bowles case. We do not know the result, but the case shows the uncertainty of jury justice.

The wisdom of juries received an illustration in Pittsburgh only a few days ago. Daniel Clowrey was charged with selling whiskey without license and selling on Sunday. The jury, after wrestling with the case an hour, came in with the astonishing verdict that the defendant was guilty of selling on Sunday, but not guilty of selling without license.

Not long since, a man and a woman were tried before the court at Meadville, Pennsylvania, under the charge of adultery, the offence, as alleged, having been committed with each other. They were tried separately, and the evidence was necessarily the same in both cases, as, also, were the charges of the Court. The result can be anticipated: one jury in its wisdom decided that the woman was guilty, and the other was satisfied that the man was innocent.

It is seldom that a long case is tried during which some of the jurors are not asleep more or less of the time. It seems to be the custom in this country for the lawyer to shout so as to awaken the sleeping juror, or to send a tipstaff to rouse him to a sense of his situation. In some courts it is said they are permitted to "sleep peacefully on," on the theory of the strong probability that if the juror had been awake he would not have understood or remembered what was said.

A French judge recently set a verdict aside and ordered a new trial because one of the jurors was asleep when some of the testimony was given. If the judge sleeps while the counsel are arguing before him, etiquette in England and the United States requires the attorneys to proceed in their argument on the supposition that he is listening with his eyes closed.

CHAPTER VI.

CONVICTING THE INNOCENT.

I shall ask for the abolition of the death penalty until I have the infallibility of human nature demonstrated to me.—LAFAYETTE.

IT is a misfortune to let a guilty man escape conviction and go back to demoralize and injure society ; but to punish an innocent one is an outrage beyond the power of language to describe. So serious is a mistake of this kind that, as the proverb has it, it is better that ninety-nine guilty should escape than that one innocent should suffer.

So careful are the statutes in some States on this point that they do not permit the punishment of death to be inflicted where the conviction rests on circumstantial evidence alone. It is a common saying among lawyers that circumstantial evidence is the strongest kind. If that be true, it argues much for the weakness of the other kind. One fact is worth several probabilities, and the number of known cases in which strong circumstantial evidence has led to false conclusions is too large to place implicit confidence in its verdicts.

Nothing is easier than to be mistaken. Every one can recall cases in his own experience, in which he felt so absolutely sure that some particular thing was true, that he would have sworn to his convictions ; and yet afterward has discovered that he was mistaken. Even when a witness intends to be truthful he may be fatally false. One is so liable to err as to time, distance, recognizing the

tones of a voice, remembering personal appearance, etc., that great allowance should be made for possible and probable mistakes.

Even the honest witness who has no personal interest in the case is likely to be biased in favor of the side he is called to assist, and to give impression as fact, opinion as reality. The witness who can be entirely fair and impartial is so seldom found on the witness stand, that when he testifies, he attracts the attention of Court, bar, and spectators as a person worthy of respect and admiration.

Men find themselves taking sides in nearly every contest that comes under their observation, no matter of what character. The man who regards horse-racing as only a half-civilized sort of sport, and who never stakes a penny on the result of a race, if watching a contest of speed, will find his sympathies enlisted with some particular horse. It may be with the gray mare in the lead or the brown gelding with his nose almost touching her hip, or he may have his eye on the white horse and the red-headed girl away in the rear.

From the nature of the case the conviction of a man for murder in the first degree is likely to depend on circumstantial evidence. Those who kill with premeditation do not usually carry out their purpose in the presence of witnesses if it can be avoided. There are many cases on record showing that innocent persons have been hanged, and as this is an important feature in considering the death penalty, I have collected a number to use in this connection. They are not the same old cases that have been used for from fifty to a hundred years, but most of them are of comparatively recent occurrence. The punishment was not death except in two of them, but that does not lessen their force in showing the danger that threatens the innocent under the law of death; because

it takes no stronger chain of circumstantial evidence to convict a man of murder than it does to find him guilty of sheep-stealing; and a false conviction for theft argues just as much against the infallibility of testimony as a false conviction for murder.

In August, 1884, three men, George Smith, George Hughes, and Asbury Hughes, were hanged for burning a house at Scottsboro, Ala. The house belonged to a man named Porter. The Porter women swore positively against these three men, and they could not establish their innocence.

In 1886, as Adam Freeman, who was serving a term in the penitentiary for forgery, was about to die, he called the prison officials about him and confessed that he burned the Porter house.

A few years ago a man named Fred Birs was convicted of house-breaking in New Hampshire and sentenced for two years. After serving nearly a year, the fact of his innocence was established, and he was released.

About eighteen years ago two men, Bird Brooks and Wade Henderson, of Hall County, Ga., were charged with the crime of rape, tried and convicted. Brooks was hanged and Henderson sent to the chain gang for life. It was afterward learned that the woman who made the charge was a lewd, unreliable character, and that the men had frequently visited her without any objection on her part. She became incensed at something they had done, and made the charge that sent one to his long home and the other to a living death.

George Bennett, an Iowa farmer, was accused, a few years ago, of criminally obtaining money by contracting to deliver grain that he did not own. He protested that he knew nothing whatever about the matter, but the evidence against him convinced the jury, beyond all reasonable

doubt, that he was the guilty man. He was convicted and sent to the penitentiary for three years. After he had served his term, the man who had personated him was discovered, and Mr. Bennett's innocence established. The governor asked the Legislature to vote Mr. Bennett five thousand dollars and give him a parchment on which the facts of the case were officially inscribed. This showed a commendable spirit on the part of the governor, but how would restitution have been made in case the charge had been murder and the punishment death?

In 1878 the cash-box of a street-car in Pittsburgh was robbed. John Willoughby was arrested for the offence, tried, convicted, and sent to the penitentiary. After he had served his sentence, William Hughes, an inmate of the Allegheny County Workhouse, made an affidavit on his death-bed that it was he, and not Willoughby, who had robbed the cash-box; and that Willoughby had nothing whatever to do with it.

The Governor of Michigan recently pardoned Samuel Ulam, who had served over twenty years under a conviction for murdering a man named Estabrook. He was convicted on the testimony of Giles Harding, who, on his death-bed, made a confession under oath that the tavern-keeper, a man who was very anxious to have Ulam arrested, killed Estabrook and buried the body in a shoe-box in his cellar. Judge Shipman, who tried the case was of the opinion that Ulam was innocent and signed a petition for his pardon. The man, so much of whose life had been spent in a living tomb, said on his release that he was glad capital punishment had been abolished in Michigan, or he would have been another of its innocent victims.

Six or seven years ago a young man named William Thomas was convicted of the murder of Dr. Allen, at Sandwich, Ill. His conviction was accomplished by the testi-

mony of a female detective from Chicago, and he was sentenced to the Joliet State Prison for the term of seventeen years. After serving six years of the sentence James Young, a convict serving for burglary, confessed that he was the murderer of Dr. Allen.

On February 5, 1884, Henry Digby, of McLeansboro, Ill., was released from the penitentiary after serving five years of a fourteen-year sentence. Six years before, John Sinkler, of Digbytown, Ill., was aroused in the night and, going to the door, was shot and mortally wounded. He lived a few hours after the shooting, and said with his dying breath that the voice of the assassin was that of Henry Digby, a prominent young man in the neighborhood. Sinkler was engaged to Digby's sister, and the marriage was to have taken place the next morning after the shooting. John Sinkler had a brother Dick, who was devotedly attached to Miss Digby, his brother's affianced. Henry Digby was arrested, tried, convicted, and sentenced to fourteen years' imprisonment. Soon after, much to the surprise of the community, Dick Sinkler and Miss Digby were married. Three years after, Sinkler brutally killed a man with a knife at Belleview, and was sent to the penitentiary. He afterward confessed that he had killed his brother John because he had sworn that nobody should ever marry Eliza Digby but himself. It was afterward discovered that he had killed two men before going to Illinois. The authorities investigated the case, and were satisfied beyond all doubt that Digby was an innocent man. He was released and was met at the depot by a large delegation of citizens who escorted him home. No doubt many of these same citizens who were now anxious to do him honor were too pure in heart to speak to him when he was under suspicion and trial, and at the time when most he needed friends and sympathy.

It will be remembered what a sensation it created, not only in England but in the United States, when a few years ago Thomas Casey and Anthony Philbin swore that Miles Joyce and others had been hanged on perjured testimony. Lord Spencer, who presided at the trial, had many pangs of conscience on account of the hanging, having again and again been characterized as a judicial murder.

In June, 1885, Governor Rush, of Wisconsin, issued a pardon to George Wilson, who served twenty years of a life sentence for the alleged murder of John Riley, a bartender at Milwaukee. He was a victim of suspicious circumstances and Governor Rush, after investigating the case, came to the firm conclusion that he was innocent, and granted him a pardon. Another prisoner, William Wirt, confessed that he shot Riley.

I next give an Associated Press report of a case in Chicago: "The police annals of this and other cities record many cases of mistaken identity, but all the histories of instances of circumstantial evidence and mistaken identity weave no stronger case against an unfortunate innocent man than did the testimony against Timothy O'Grady, convicted of the murder of police officer Michael O'Brien, the night of April 3, 1887. O'Grady was sentenced to the penitentiary seventeen years for manslaughter.

"The only point that saved him from hanging was that policemen O'Brien and Dillon, by roughly accosting and shaking O'Grady, had given him, if not sufficient provocation to shoot, enough at least to plead it strongly against the infliction of capital punishment. O'Grady astounded all his friends, not one of whom could believe him innocent of the crime, by his refusal to plead self-defence when put on trial. He maintained, against the advice of all, that he had not done the shooting.

"All the testimony and circumstances went to disprove

his claim of innocence and his conviction followed. After many months of confinement his liberty has been made possible by the confession of one of the most daring and notorious criminals in the country, it being none other than John J. *alias* " Dyer " Scanlan, the leader of the celebrated Mollie Mott gang.

" O'Grady's lawyers were convinced of his innocence and they believed Scanlan, who was serving a long term for shooting officer Nolan, to be the guilty man, and they set about getting a confession from him, which they succeeded in doing. It appears that O'Grady had a fight with officers O'Brien and Dillon and had escaped into an alley. The officers followed and O'Brien was shot down by some one concealed in a corner.

" O'Brien in his ante-mortem statement, and Dillon on the stand, testified that O'Grady was the guilty party; but it was shown that the bullet which killed O'Brien was much larger than that carried by O'Grady's pistol. The jury ignored this, but the confession of Scanlan clears the matter up, as he has produced the weapon that did the shooting, and which corresponds with the fatal bullet."

The following account was published in New York papers January 3, 1887:

" The bitter landscape around Sing Sing looked soft and lovely to the eyes of two men who stepped out free from the the gray prison walls Saturday evening, just as the scarlet sun was dropping behind the rough palisades. They were William Poole and Joseph Font, who had just received from Governor Hill an unconditional pardon, releasing them from a life sentence at hard labor and restoring them to citizenship.

" For almost ten years they had toiled and suffered behind bars; for ten years they had borne the brand of murderers, and for ten years all who were near and dear to them

had dropped into the grave. When they walked out into the sunlight and stood upon the brow of the prison hill, tears fell upon their cheeks. A great tragedy was over.

"Some one found John Ryan at four o'clock on the morning of April 29, 1877. He lay on the sidewalk opposite No. 56 Leroy Street, New York. His skull was fractured and his pockets turned inside out. He died while policemen were carrying him to the station. Wm. Poole, Joseph Font, and James Keenan were seen in the immediate locality that night, and were arrested and indicted. A policeman, named John Noble, was detailed to do detective duty, and hid himself in a cell when Poole and Font were first arrested. He swore that he heard Poole accuse Font of having given away facts to the police. He also swore that Poole told Font that he threw a certain stick into the river. A bloody handkerchief was found in Poole's pocket. He said the blood came from his nose. Poole and Font were convicted of murder in the second degree, the jury recommending mercy, and Recorder Hackett sentenced them to imprisonment for life. Keenan was released. Both of the condemned men called upon God to witness that Noble committed perjury in order to get up a reputation as a police detective. They passionately protested their innocence and declared that no such conversation as Noble swore to ever took place. But all their protestations were in vain, and they were hurried off in their youth and vigor to a living grave. Only six months ago Font's venerable mother died broken-hearted. Poole's wife died not long after he was imprisoned.

"Hundreds of men believed the two young men innocent. The Rev. Thomas J. Ducey, now pastor of St. Leo's Church, attended them in their cells, and he was strongly impressed with their statements. One night the priest was

summoned to the death-bed of Police Captain Kennedy. Then a terribly dramatic scene took place. The dying man fixed his eyes upon the face of the gentle pastor and confessed that he believed Poole and Font were innocent of the murder. He said that the matter lay on his conscience and that he could not die easily without doing all in his power to right the great wrong. Captain Kennedy begged the priest to have them pardoned if he could. He said he thought Noble had perjured himself in order to make a good case. As a Christian he wanted to die feeling that Poole and Font would be released.

"To Governor Cornell the Rev. Ducey hastened with this death-bed confession, but nothing came of it. When Governor Cleveland was elected the minister again went to Albany. The Governor promised to examine the facts. In the early part of 1884 Editor William F. G. Shanks was working up the subject of jury-fixing. He stumbled across the case of Poole and Font. Becoming interested, Mr. Shanks called upon Governor Cleveland to urge a pardon. Mr. Cleveland said if it could be shown that the jury had recommended the men to mercy he would pardon them. Mr. Shanks hunted up the foreman and got the other eleven names from him. To the amazement of Mr. Shanks two of the men said they had not served on the jury and were not even present at the trial. Investigation proved that two unknown men, probably hangers-on at the sheriff's office, had personated the two men whose names were given as being on the jury, but who were not. Mr. Shanks' theory of the whole jury system was that many rich men paid the sheriff's deputies for exemption from jury duty, and that the deputies in such cases procured convenient friends who were glad to impersonate the real jurors and pocket the State's two dollars a day. At this time Mr. Hill became Governor

and Mr. Cleveland turned the case over to him. A few days later Mr. Cleveland said to the Rev. Ducey: 'It is my opinion as a criminal lawyer that there is no evidence of a murder having been committed, and if Ryan was murdered there is no evidence that these young men are guilty.' The case was vehemently urged upon Governor Hill, who was slow to act. Mr. Shanks went to Noble, who read to him what he had written in a note-book of the talk between Poole and Font at the time it took place, but admitted that it might have been about some other matter that had no bearing on the murder at all. . . . An affidavit was prepared which Noble offered to sign, if his lawyer was satisfied, but the lawyer refused on the ground that it would reflect against Noble. Governor Hill, however, being satisfied that the men were innocent, pardoned them.

"While Poole was passing through the prison-yard on Saturday, a life prisoner met him and said:

"'Billy, I hear you are going home to-day.'

"'O God,' said Poole, turning pale, 'don't deceive me on New Year's Day.'

"'They have telephoned from the village that two pardons have been granted and are on the way. They must be for you and Font.'

"'Don't torture me with false hopes,' said the convict, as the sweat stood in great beads on his brow.

"'It 's true, Billy; God bless you. I hope you won't forget me; you know I can never leave these walls alive.'

"Burglar Johnny Hope stood afar off and bade farewell to Poole in pantomime by shaking hands with himself. Poole ran to him.

"'O Johnny, is it true?' he cried. 'Is God so good?'

"'It 's as true as death.'

"The two convicts trembled. Then they wiped their eyes and shook hands in silence. A moment later everybody was shaking Poole's hand and embracing him. He laughed and cried by turns. Then he told Font, who almost fainted with excitement. They were summoned by Warden Brush and informed that they would be free men in a few hours. They asked permission yesterday to divide among the other prisoners the presents sent them. The warden told them they could distribute their little trinkets and possessions to their friends. Poole had a lot of pet pigeons. He let them kiss him good-bye and caressed them. For years they were almost his only companions. The convict carried them to another life prisoner and laid them at his feet. To the same prisoner he gave his looking-glass, his bedding, and most of the trinkets in his cell. Font also distributed his belongings among his prison comrades.

"Some of the partings were very pathetic. There was an old man named Mike Gorman, who had served thirty-one years of a life sentence. He had been told that he might be pardoned for a Christmas present, but the news was false. When Poole told him he was going away the old man groaned and faltered out a farewell. He watched the sprightly form of the pardoned man until it disappeared around the corner, and then he covered his face with his hands and the tears would come.

"Years ago Poole said that when he was arrested, Captain Kennedy had brought him into the private office of the police station with his hands handcuffed behind his back. While the prisoner was in that helpless position, it was alleged that the Captain shut his fist and threatened to beat his face to a jelly unless he confessed. Then he was put into a cell on one meal a day for three days. Font said at the trial that Kennedy had said he would

make him confess. Wire nippers were put around the prisoner's wrist and twisted until he begged for mercy. For three days neither of them was informed of the charge against them.

"They asked to be taken before some magistrate and were refused. A reporter asked them about this after they were liberated.

"'Kennedy 's dead and we forgive him,' said Poole. 'He righted us on his dying bed. We don't want to repeat the story.'"

The last illustration is the story of a man who saw his own gallows built, about forty years ago, but who escaped to become a useful citizen.

Paul Kunkle, a well-known citizen of York, Pa., died in June, 1880, aged seventy-nine years. His death recalled a most remarkable incident in his life. Forty years ago he was convicted on circumstantial evidence of murder, was sentenced to be hanged, and escaped only by the providential discovery of the real assassin eight days before the sentence was to have been executed. A son of the deceased gives the following as the family record of the incident.

In 1849 a brother of Paul Kunkle, who had been living with the latter's family, resolved to return to Germany, whence he had come some years before. Paul accompanied him to Baltimore, and after seeing him safely on shipboard started homeward on foot. He met with no remarkable incident until he reached Parkton. Near that place he came up to a man sitting by the roadside. He spoke to Mr. Kunkle, who stopped and engaged in conversation with the stranger. The latter said he was travelling in the direction of New York, and the two walked on together. The stranger said his name was Conrad Winter. On the way he offered the umbrella he carried,

which was a valuable one, in exchange for an old one Mr. Kunkle had. Kunkle unhesitatingly made the trade. By the time they reached York the two men had come to be on friendly terms, and Winter expressing a desire to remain a few days in York and look about him, Kunkle proffered him the hospitality of his home, which Winter accepted. He remained three or four days with the Kunkle family during which time he exchanged a variety of articles he had in his parcels for others of no value belonging to different members of the family. He offered to give one of the children a handsome snuff-box, but this gift was declined by the parents. Winter, soon after meeting Kunkle on the York road, gave the latter the news of a murder that had been committed down in Maryland somewhere, and told Kunkle that the murderer had not yet been captured. The day after Winter left York, Kunkle learned that a woman had been murdered in Parkton the very morning that he had passed through that place. A day or so afterward two officers from Maryland appeared at Kunkle's house. They recognized in him one of the strange persons who had been seen in Parkton on the morning after the murder, and who were suspected of the crime. The woman who had been killed was a Mrs. Cooper. The officers found an umbrella, a pair of shoes, and several other articles in Kunkle's house that were identified as the property of the murdered woman. Kunkle was arrested, charged with being the murderer. His mind was at once so affected by the terrible situation in which he found himself, that he was unable to give any connected or lucid explanation of his possession of the articles. His wife knew nothing of the circumstances connected with her husband's meeting with Winter. She told all she knew, but it was insufficient to have any effect on the authorities, and Kunkle was taken

to Baltimore and lodged in jail. Ten months afterwards he was placed on trial.

Mrs. Cooper, who was a lady of good family, living near Parkton, had been found covered with brush by the roadside, with her skull crushed in. A stone was discovered near by with which the deed had been done. It was proved that she was returning from the village store, where she had purchased a pair of new shoes; that she carried on the occasion a large alpaca umbrella with a peculiar mark on it, and that Kunkle was seen passing along the road near the scene of the murder on the morning the murder was committed. The pair of new shoes and the umbrella were found in his house in York. Mrs. Cooper's silver snuff-box, which she always carried, was also missing, and the authorities were then in ignorance of the fact how near that article had come to being another damaging witness against this unfortunate German. Kunkle was convicted. He was sentenced to be hanged two months from the time of his conviction. Despite the strenuous exertion of his friends who believed him innocent, no executive clemency could be obtained in his case.

He himself was in a state of mind that did not permit him to realize his fearful position up to within eight days of the day of the execution. Then there suddenly came a singular clearing up of his mental faculties. He sent for his counsel, and for the first time informed him of the circumstances of his meeting with Conrad Winter, of Parkton, and the exchange of property he had made with him. Officers were detailed to hunt up Winter. No trace of him could be found until two days before the day set for the hanging of Kunkle an officer from Ashland, Pa., appeared in Baltimore with the missing man. Winter was a blacksmith. He had been working in Ashland

ever since the arrest of Kunkle, under another name. The trial of Kunkle created a widespread interest, and among those who had discussed it most among his fellow-workmen had been Winter, who was known in Ashland under the name of Grover. He was particularly bitter against Kunkle, and hoped he would not be permitted to escape unhanged. A young man who worked with Winter was suspicious, after the story of Kunkle had been made public, that his fellow-workman was the fellow for whom the officers were looking. One day Winter took a pinch of snuff from a box he carried and offered his helper some. The latter took the box. On the inside of the lid was engraved the word Cooper. The young man at once communicated his suspicions to friends.

By careful watching they discovered that the blacksmith's name was not Grover, as he had given it, but Conrad Winter. The arrest was made at once and Winter taken to Baltimore. A reprieve was granted Kunkle.

Winter was placed on trial for the murder. He was convicted. Kunkle was given a new trial to clear him legally from the charge of murder, which was speedily done.

On the scaffold Winter confessed to the murder of Mrs. Cooper. He had mistaken her for a Mrs. Goodrich, who had procured his incarceration in State prison for stealing sheep. He had just been released from prison and was approaching Parkton, when he saw a woman walking in the road ahead of him. He thought it was Mrs. Goodrich. He picked a large stone, stole up to his victim, and felled her to the ground with a blow. She died instantly. Upon turning her over he discovered that he had not killed his enemy, but Mrs. Cooper. He took her umbrella, shoes, snuff-box, and other articles, and then covered the body up with brush.

When he met Kunkle the idea was conceived of placing Mrs. Cooper's property in his possession, and thus destroying evidence against himself.

Winter was hanged, and Kunkle lived to become one of York's most useful citizens.

These cases, picked up in a limited course of newspaper reading, are sufficient to show that the instances in which the innocent are called to suffer are not scarce, and afford an additional reason why the irremediable penalty should never be inflicted.

Paley says that he who falls by a mistaken sentence may be understood as falling for his country while he suffers under the operation of those rules by the general effect and tendency of which the welfare of the community is maintained and upheld. Of course it may be considered sweet to die for one's country in poetry and romance, but the average man would much prefer to have the sweetness of an innocent death on the scaffold "long drawn out."

A practice worthy only of condemnation is that of convicting men on the testimony of paid detectives. It is their business to ferret out crime, and very frequently they are more anxious concerning their reputation and their reward than they are about the innocence or guilt of those they accuse. When Bob Ford, in the rôle of a detective, could be bribed to shoot his friend in the back, is it going too far to say that men, whose pay depends on the number of persons they convict, are not always persons to hesitate at a doubt of the innocence of the accused?

It is too much the case with men in all kinds of business, that their zeal to succeed overcomes their conscientious scruples against using questionable or even false methods to achieve success. The lawyer who prosecutes a fellow-man for murder loses all sympathy for the prisoner in his zeal to win the case, and resorts to means not

enjoined by his duty to secure a conviction. Detectives sometimes are mere adventurers, without sympathy, without pity, and often without honesty.

Judge Church, of the Queen's Bench, Montreal, recently denounced private-detective agencies in scathing terms. He said: "There is to my mind something outrageous in men's assuming, for a consideration, to become paid spies over their fellow-citizens in the interest of any one asking their services, to shadow and track them down, only too often for not the most laudable purposes."

CHAPTER VII.

THE INSANE.

Reason is a very light rider, and easily shook off.—FIELD.

THE presumption is that the law does not contemplate the hanging of insane persons; but who can draw a line and say: "On this side are the sane and on that the insane." Does not the insanity expert testify for the side that employs him? But suppose he is impartial and honest, can he look into the hidden mind of a human being and know whether or not he comes within the pale of responsibility?

We are constantly reminded of the fallibility of expert testimony. In 1880, one of the most eminent experts in handwriting in England declared under oath that certain offensive writing was identical with that of the Lord Mayor of London, and had his testimony been believed, as it would have been had it implicated some man without social standing, the Chief Magistrate of London would have been convicted of libel.

Six medical experts, a few years ago, examined a man in Yorkshire as to his mental capacity, and were equally divided as to his sanity. When the discussion was at its height, a messenger hurried in with the information that they had examined the wrong man.

The late Senator David Davis related an instance showing the liability of men to misjudge as to the mental

condition of those on trial for murder and alleged to be insane. When he was on the bench at Bloomington, Ill., a man was tried before him for murder, in which the killing was admitted, but insanity argued as a defence. Abraham Lincoln, of Springfield, and Leonard Swett, of Bloomington, two of the most eminent lawyers of the State, appeared in the case, Lincoln for the prosecution, and Swett for the defence. A large preponderance of the expert testimony favored the sanity of the prisoner, Dr. McFarland standing almost alone in claiming that the man was insane. Mr. Davis said that after listening to the case, hearing all the testimony and the arguments of the attorneys, and after observing closely the behavior and appearance of the prisoner during the trial, he came to the conclusion that Dr. McFarland was mistaken in his diagnosis of the case, and that the man was sane. The jury, however, rendered a verdict of "not guilty," and the prisoner was sent to an asylum where he died shortly afterward, a maniac.

In nine cases out of ten the result would not have been so creditable to humanity. The jury, governed, as it is supposed to be, in fact as it is sworn to be, by the evidence, would, in such cases, usually feel justified in saying "guilty"; and had it done so in this case, Judge Davis would not have hesitated to pass sentence of death, and another irresponsible wretch would have been sent to his long home, a victim to the law of life for life.

Judges as well as jurors are only human, and are too likely to be governed by their impressions and prejudices. The Medical Jurisprudence Society of Philadelphia, at one of its meetings in 1887, discussed the case of Otto Hugo Webber, who had been hanged a short time before.

It was alleged by the best insanity experts that Webber was insane, but the judge compelled him to plead and go

to trial, and he was convicted. Dr. Carr protested in strong terms against the action of the judge in refusing to grant a preliminary trial to test Webber's insanity. He said the evidence was incontrovertible that he was insane. He said: "If the history of the last twenty-five years warrants society in believing that the hanging of supposed lunatics, guilty of murder, is necessary to its protection, all right; but then the question arises, has society the right to put a man upon trial for his life when he is incapable, through mental disease, to appreciate his danger?" In the case of Webber not one witness was called to contest the evidence that he was insane, yet he was compelled to plead when he was mentally incapable.

Dr. Lloyd took still stronger ground than Dr. Carr. He had examined Webber a dozen times during his confinement and trial, and no one could doubt his insanity. After a detailed history of Webber's life, showing him to have been insane a year before the murder, he concluded by saying: "This man stands convicted on a wrong interpretation of justice, and on an antiquated judicial procedure."

Dr. C. K. Mills left the chair and took place in the discussion. He said that there was not a more insane man in the State than Webber, and that he did not remember a case where a man was acquitted on the ground of insanity unless the public asked for it.

A keen insanity expert was called to the stand a few years ago in Memphis, Tenn. During the course of his testimony he said that no man can tell where sanity ends and insanity begins, and that lawyers make asses of themselves and fools of the doctors in trying to find out.

To show how liable insanity experts of wide experience are to be mistaken, it is necessary to refer only to the case of Miss Elizabeth Cochran, or Nellie Bly, as she is

better known. Two years ago she was a reporter on the New York *World*, and was commissioned by her employers to obtain information concerning the treatment of the insane in the city's asylum on Blackwell's Island. She feigned insanity, frightening the people with whom she was boarding. They had her arrested and taken before a police court, from which she was taken to Bellevue Hospital to be examined as to her mental condition. Here she was taken in charge by three physicians, the city's insanity experts, and after being examined she was pronounced insane and committed to Blackwell's Island asylum.

Now, here is a case worthy of note. A young lady, twenty years of age, entirely ignorant of the peculiarities of demented persons, successfully dupes the people with whom she is staying, the policemen, court, insanity experts, nurses, and attendants, and succeeded in the very purpose she had in view—of seeing the asylum in its every-day garb.

Similar to the case of Nellie Bly was that of George W. Symonds, of Philadelphia. The *Enquirer* of that city was anxious to have a practical investigation made of the workings of the Philadelphia Insane Hospital. Mr. Symonds agreed to undertake the "insanity dodge," and work himself into the institution. He succeeded admirably. He was arrested by the police, while gesticulating on the street, and was taken to the police department, where the attending physicians pronounced him insane, and on whose certificate he was sent to the hospital. After a few days he was given a rigid examination by five medical experts, who unanimously pronounced him insane, and remanded him to indefinite imprisonment. He remained six days, seeing much that should never have taken place in such an institution, when he suc-

ceeded, with the aid of his friends, in convincing the authorities that "there was method in his madness."

The large number that become insane among our prison population is an evidence that many were at least on the borderland of insanity when they transgressed. It may safely be concluded that it is beyond the power of man to diagnose the condition of the mind, especially when it approaches that middle ground between madness and reason.

An extract from a lecture by Dr. A. E. McDonald, a well-known authority on insanity, may be interesting:

"Many learned men have been endeavoring for a long time to settle just what insanity is, and it is not too much to say that they have not yet succeeded. But if I cannot tell you just what insanity is, I can tell you one or two things which it is not.

"Insanity is not a disease of the mind. The poet speaks of the 'mind diseased,' but the physician does not. The mind is no more subject to disease than is the soul to death. The disease is in the brain, as purely physical in its location and characteristics as disease of any other organ; and if the mind shows its presence and effects, it is only because the mind is the product of brain action, and an unhealthy organ must always give rise to disturbed action.

"Insanity is so diverse in its degrees and phases that it is hard to draw the line and say just where soundness of mind ends and unsoundness begins. In fact, it is a good deal a matter of majorities. We who call ourselves sane happen to be in the majority just now, and we have set up our standard and locked up a number of people who fail to meet it. Their number is increasing all the time, and by-and-by, if it keeps on, they will be in the majority, and then they will turn around and lock us up.

"Between the men manifestly of sound intellect and those confessedly insane, there are arrayed rank upon rank of those in whom a defect, greater or less, is seen. In some there is unmistakable insanity, in others eccentricity, as we call it; in others again, depravity. Many men of mark have been found in these ranks. Some have occupied thrones, like Charles IX. of France, George III. of England, and Frederick II. of Prussia, and have impressed upon the policy of nations the stamp of their disease; others, like Mohammed and Swedenborg, have colored with the delusions of insanity the tenets of religious sects; and especially among men of letters have these ranks been largely recruited.

"Johnson, Swift, Pope, Gray, and Wordsworth; Byron and Shelley; Cowper, Southey, and Charles Lamb,—in all there was either marked insanity or a close and undeniable approach to it.

"The one great predisposing cause is the inheritance of a tendency toward insanity begotten in some defect in the ancestry, not necessarily itself insanity, but possibly some other nervous disease, and possibly, too, intemperance. The immediate causes may be either moral or physical in their nature. Now we have to look more for physical causes.

"Of these, intemperance and other vicious indulgences are the most productive. The simple rules of life which afford the best protection from other diseases should be followed by those who would avoid this, the most terrible of all. The keynote of the whole is the remembrance that insanity is a physical disease, whence it follows that its prevention must come through attention to the general laws of health."

CHAPTER VIII.

WAR *vs.* HANGING.

Example is stronger than precept. People look at my six days in the week to see what I mean on the seventh.—The Rev. R. Cecil.

No nation that engages in war should put any of its subjects to death for committing murder. Though England has never been suspected of being too lenient toward her criminal classes, an old English law prohibited butchers from sitting on juries in murder cases, on the ground that their occupation tended to harden them, and render them unduly harsh toward the prisoner.

No doubt familiarity, even in destroying animal life, has a hardening tendency, but must not such an influence be infinitely stronger, when it arises from killing men instead of beasts? There are but few men who can serve through a long war, and become familiar with all the terrible scenes of death and destruction, and not have a less lofty idea of human life. It ought to be evident from theory that war is a bad school, but experience proves it so beyond doubt. The criminal records of all countries show that the percentage of those who commit crimes, after having been in the army, is very large. The inspectors of the Eastern Penitentiary of Pennsylvania, in their report for 1866, say:

"There is in our social condition a predisposition to crimes of the higher grades which is easily comprehended. The crime-cause arises from the demoralization which ever

attends on wars and armies. Familiarity with deeds of destruction and violence, thus induced, leaves its impression after the one is over and the other disbanded. We find all over the country the most distressing evidence of this fact. Crimes against persons are daily committed, and crimes against property are equally frequent."

Of the two hundred and fifty prisoners received at the Eastern Penitentiary in 1866, one hundred and fifty-three, or sixty per cent., had served in the army. The inspectors say of these: "Nine-tenths of them have been more or less incapacitated and demoralized by an apprenticeship to the trade of war." Of three hundred and sixty-four received in 1867, one hundred and sixty-five, or forty-five per cent., had been in the army. In 1868, of two hundred and ninety-one, one hundred and thirteen, or forty per cent., had served in the army. In 1869 the number received was two hundred and fifty-three, of whom one hundred and thirty-seven, or fifty-four per cent., had been soldiers. In 1874 forty-seven per cent. had served in the army. The report of the Western Penitentiary at Allegheny, for 1879, gives the enormous ratio of two hundred and sixty-five of three hundred and twelve, or eighty-five per cent., as having served in the army or navy.

The National Conference of Charities in its report for 1887 says:

"The intimate relation between crime and pauperism has naturally led every State Prison Board to take notice, more or less constantly, of the startling increase of crime since the Civil War."

Nothing is further from my purpose than to say any thing derogatory to those brave men who went into the army at duty's call, endured the dangers and hardships of war, and came home to lead honest and useful lives. I

am simply stating what seem to be well established facts, to answer the purpose in view. Every intelligent old soldier knows better than he can be told that the army was a bad school, at least for bad men ; that there were many bad men there, most of whom grew worse, and but few who became better under the duties of a soldier's life.

When government trains a body of men, making it their first duty to destroy and their second duty to save alive ; when it spends millions every year in perfecting instruments of destruction and death, is it surprising that some of its ignorant, weak-minded subjects come to the conclusion that taking human life cannot be so terrible a crime ?

Of course it may be possible that only great minds can appreciate the beauty, necessity, and glory of war, and the honorable character of the " profession of arms," and that only weak minds feel a shudder when thinking of battles. There may be men so peculiarly gifted and constituted, so capable of drawing fine distinctions, as to understand clearly why killing one man on individual and private account is the highest crime, but killing a hundred thousand on public account is glorious and justifiable, but all men are not endowed with this remarkable power.

Some weak creature is likely to become confused as to where the line should be drawn between the killing that is murder and that which is glory ; and after killing for the government a few years, he may forget himself and do a little on his own account. He soon discovers, however, what his reason failed to teach him : that what was right for him to do for others, is a crime deserving death when done for himself.

A wretch who was executed at Exeter, England, after

sentence of death was passed, exclaimed to the bystanders: "I have killed many men to please the King, why should I not kill one to please myself?"

A soldier was arrested at Lestwithiel, England, for shooting a man. Seeing the horror and agitation of the citizens, he coolly observed:

"Here 's a pretty fuss about killing one man. Why, I have seen hundreds killed!"

This feeling is by no means unnatural. It is the unavoidable result of war's training. A man, weak in moral principle, may enter the army under the idea that it is his duty, or because he thinks the soldier is the world's hero, or because he wants the money and expects to have a good time. He goes through battle after battle, campaign after campaign, and after mingling in scenes of blood, suffering, and death, he is sent home with his moral sense still more weakened, and his respect for human life destroyed. Would it be reasonable to expect him to unlearn, at once, all the lessons that government has taught him?

He killed a half dozen men in the army, in cold blood, —men too whom he had never seen before and against whom he could not have had the slightest personal resentment. Was that right? He must think it is, because his is a Christian government, and surely it would not ask one of its subjects to do wrong.

In the course of time, the money he earned in war is gone. Should it surprise any one that it occurs to this man to earn more money by his late occupation, the one in which he was employed by government?

He knows a rich old miser in the neighborhood, friendless and despised, a man who never did a kind act in all his life, and whose death would not cause a pang of real regret. He remembers how, for the government, at thir-

teen dollars a month, he killed a half dozen men; now he can kill one and put himself beyond the reach of want; surely the government won't care.

But when he commits the deed, government soon shows him how sacred a thing is human life. It lays hold of this weak man who had been its pupil, who for years had been trained to kill under its officers, and after pointing out to him the heinousness of the crime he has committed, it pulls the black cap over his face and strangles him to death; showing that it holds life so dear, it has just destroyed one to prove the sincerity of its love.

We may call war what we choose, murder, glory, or necessity, but no matter under what name or plea it acts, when government forces or hires a man to go into the army, puts a musket into his hands, encourages him to shoot down men he has never seen, keeps him engaged in scenes of carnage until he loses his respect for human life, that government is morally responsible for that man's crime, if he commits murder; and instead of sending his soul into eternity, it should place him where he can be taught the difference between public and private murder, and give him a chance to reform.

CHAPTER IX.

THE EXECUTIONER AND HIS WORK.

Away with the executioner and the execution and the very name of its engine. Even the mere mention of them is unworthy of a Roman citizen and a freeman.—CICERO.

THERE should be no duty, connected with any office in an enlightened government, that a man could not assume without losing the respect of mankind and making himself a despised creature. As some one has said: "If governments were what they should be, Jesus could hold any office connected with them." It may sound harsh to use the name in such a connection, but could He act as hangman and still be reverenced as God?

A sure indication that the death penalty is repulsive to the better feelings of men is the detestation with which the executioner is regarded. Men refuse him the hand of fellowship and would sooner associate with a beast than with him whose trade is to take human life. This is true not only in all enlightened governments, but even in those countries that have not yet reached the most advanced degree in the scale of progress. In Spain, where bull-fights are the national sport, the executioner is an object of disgust.

An account given by William Ladd shows how the hangman was regarded there many years ago. He says:

"No man, however low or despicable, would consent to perform the office of hangman; that whoever would dare

to suggest such a thing to a decent man would be in danger of bodily injury.

"This feeling was so strong and so universal that the only way they could procure an execution was to offer a condemned criminal his own life, if he would consent to perform the vile and hateful office on others. Sometimes executions were postponed for months, because there was no condemned criminal who would perform the office of executioner.

"A fee was allotted by law to the wretch who did perform it, but no one would run the risk of touching his polluted hand by giving it to him. Therefore the priest threw the purse as far as he could. The odious being ran to pick it up and hastened to escape the execrations of all who had known him, as a hangman. Even the poor animal that carried the criminal and his coffin to the foot of the gallows was an object of universal loathing.

"He was cropped and marked that he might be known as the hangman's donkey. No man, however great his need, would use the beast either for pleasure or labor, and the peasants were so averse to having him pollute their fields with his footsteps that when he was seen approaching the boys hastened to drive him away with sticks and stones."

Since that time the executioner is a regularly appointed officer, and a recent writer describing the death of a criminal in Spain by the garrote thus concludes the account:

"After the ground was cleared, one of the police went forward and, seizing the executioner, arrested him for murder and hurried him to prison where the court was still sitting. Placing him before the court, he was accused of having killed a man and denounced as a murderer. The judge asked him what he had to say in answer to the charge.

"'It is true,' he replied, 'that I killed the prisoner, but I deny being a murderer, for though I committed the act charged,' displaying his arm with the badge, 'I did it in the cause of justice and in pursuance of the law, all of which I was compelled to do by virtue of my office.'

"'The accused is innocent and is discharged,' answered the Court, 'and the formula of Spanish law is satisfied.'"

Marwood, the English executioner, arrived in London the evening before he was to hang Dr. Lamson in 1882, and he paid a visit to Lusby's music-hall. He was recognized immediately and a scene of confusion ensued. He was obliged to drive away in a cab, in order to escape being mobbed.

England, the executioner of Bennett, who killed Brown, editor of the Toronto *Globe*, led a very unhappy life afterwards, according to reports published in 1880. The whole town turned against him, children gathered about his house at night to taunt and abuse him. No one would employ or associate with him, and as a last resort, he had to apply to the Mayor for a pauper's pass to get out of town.

Civilization has no congenial place for the executioner. Men would rather associate with a murderer than with a public hangman. The murderer may have some excuse to offer as a palliation for his offence, the hangman kills for hire.

This aversion to being instrumental in taking life was exemplified in the "electrocution" at Auburn a few days ago. Inventors of electrical machines exhausted their own ingenuity, and that of their lawyers, in attempting to keep their respective engines from being used for so unholy a purpose. The man who turned on the death-dealing current is ashamed to have the world know that he was even a part of the legal means used in putting a fellow-

creature to death. It is said that a convict was selected to turn on the deadly current, but whether that be true or not, no one has yet been willing to confess that he assumed the rôle of executioner.

It is usually the case that the man who cuts the rope or does the part considered the hangman's act proper, is concealed that he may not be seen or known. Men do not seem thus ashamed of their duty when taking a convict to prison for life. Why is it that they stammer, blunder, and sometimes faint when performing a judicial killing?

Does capital punishment bear the same relation to other penalties that whiskey-selling does to other kinds of business? It is legal for men to sell whiskey; it is legal for them to buy it and drink it; yet in spite of its legality those who sell and those who drink want a screen to hide them from the public gaze. May not capital punishment and whiskey-selling both be classed under the head, "Legal, but doubtful"?

In early times men were put to death after the most excruciating tortures had been inflicted upon them, but in recent years legislators and penologists have spent much time in trying to devise means to deprive the culprit of life in the easiest possible way. Physicians could readily suggest a way that would send a mortal into the world to come, without pain and without any tedious, painful time spent in preparing for it, if they would only do so. Such means would partake more or less of the nature of those sometimes used by physicians in their practice, and they will not lend themselves to aid in legal killing.

In 1878, Dr. John H. Packard, one of the leading physicians of Philadelphia, read a paper before the "New York Medico-Legal Society," advocating the use of carbonic-oxide gas to deprive of life those condemned to die.

No one doubts that this plan would work just as successfully on human beings as it does on dogs, but it meets with no favor from physicians, and its adoption must depend much on what they have to say about it.

If the executioner is an object of disgust, what must be said of his work? What is its effect upon the public mind? Executions are frequent in this country, averaging from two to three per week, and whether their influence is good or bad can be determined with some degree of certainty. Does the strangling of a human being, by the strong arm of the law, have a tendency to make bad men fear and respect the law, or does it rather incite their evil propensities to deeds of greater violence?

To get the full benefit of executions it was, until recent years, thought necessary to have them as public as possible, and if the "fear" theory be correct the plan of having executions public is also correct.

It is, however, agreed on all hands, even by the most obtuse advocates of capital punishment, that public executions have a most brutalizing effect on the public mind, and that legal killings should be as private as possible. There is no use in taking time to discuss the evil effects of public executions, for there is no dispute on this point.

But what can be said for those select examples of killing to which only the privileged few are admitted? Are they less demoralizing? Are not the minutest details of every execution spread before the readers of the newspapers in so glowing language that they see the degrading scene in imagination, even more vividly than they could with their eyes, if they were permitted to be present? Incidents are given that would entirely escape the ordinary observer, and they are told in so thrilling a style that the reader actually seems to be there in person as an eye-witness.

Thinking of things sometimes has about the same effect as having them take place under our observation. Herbert Spencer says that he cannot think of seeing a slate rubbed with a hard pencil without there running through him the same thrill that actually hearing and seeing it produces.

As described in the newspapers, the reader knows for days before the execution how the prisoner looks, acts, and puts in his time. He sees the scaffold erected. He knows what the prisoner has eaten the day before, and what he had for breakfast on the morning of his last day. He is told whether the victim smokes a pipe or a cigar, and knows how he slept the night before, and how many times he started up in his dreams. He hears what the victim says to the priest, how certain he feels of entering the pearly gates. The reader sees the sheriff and his assistants going to the cell, sees them binding the culprit's legs and arms. He hears the death warrant read, sees the march to the scaffold, the prisoner "the least concerned man in the procession," or "his face blanched to ashy whiteness." He sees them mount the scaffold, sees the noose adjusted, the black cap pulled over the face, and then sees the body shoot downward, afterward to writhe in mortal agony. He can see the physicians holding the wrist to tell when man's inhuman treatment of his fellow has been legally completed, and he gets a last glimpse of the body as it is cut down and placed in a box to be carted away or taken to the hospital table for dissection, and so on *ad infinitum*, *ad nauseam*, until the effect on the vicious mind is as bad as actually seeing the horrible occurrence.

The case of legally killing a man with the electrical current is too recent to need repetition as to the gruesome details of the affair. The way in which many editors view this "electrocution" would be amusing, if in connection

with almost any other subject. Most of them are wedded to the death penalty, but they want it to be by the good old way of their fathers, "to be hanged by the neck until dead, dead, dead."

They were so horror-stricken because spasmodic contraction of some of the muscles made it seem as if Kemmler were alive after the current was turned off, that some of them could not do the subject justice in one or two issues, but reprobated the execution daily for a week, and an occasional paper is denouncing it yet on all convenient occasions as something that should never be permitted to occur again.

It was denounced as horrible, brutal, atrocious, a disgrace to humanity, etc. English editors were just as much shocked as their brethren on this side of the Atlantic, one London daily declaring that Kemmler's execution sent a thrill of horror around the globe. In the name of wonder what did they expect? Did they not know that killing a human being is a horrible business, and that all attempts to make it appear refined and civilized must end in failure?

The only reason why Kemmler's execution touched a more tender and refined chord in the hearts of the people than a brutal gallows scene is simply because it was something new. We have become accustomed to the old way, horrible as it is, and it has lost, in a measure, its revolting hideousness. There is not a doubt that Kemmler was unconscious within a second or two after the current was applied. There was no heaving of the chest, no moans or struggles, or other indications so often mentioned in hanging accounts; so it cannot be that his physical suffering touched a sympathetic chord in the hearts of the editorial fraternity. It is simply an illustration of Pope's lines:

" Vice is a monster of so frightful mien,
As to be hated needs but to be seen ;
Yet seen too oft, familiar with her face,
We first endure, then pity, then embrace."

In the course of time, if " electrocution " is continued, it will be regarded by the advocates of the death penalty as a highly refined and moral method of reforming those who commit murder, and of teaching their fellows the sacredness of human life. If electricity instead of the gibbet had been in use all these years, and some State would adopt the gallows, with the first execution a bungling affair, as they so often are, the sheriff would be mobbed, and the State that had adopted the new punishment would justly be charged with disgracing civilization.

Many papers predict that Kemmler's execution will prove the death-knell of capital punishment ; and it does prove, beyond doubt, that there is a widespread feeling among the American people against it. Many of those whose feelings revolt at the punishment of death are not yet conscious that they are opposed to it ; but, in fact, their emotion in Kemmler's case was only a general sentiment against the penalty itself.

If we must kill some of our fellows, and wish to do it as easily, pleasantly, and agreeably as possible, why not let the executioner and his victim choose the method they may prefer, whether by poison, bleeding to death, hanging, or whatever it may be? If they fail to agree on a way, then let the victim select the method of death, as he is the one most interested. Or, as has been suggested by the New York *World*, we might adopt the retaliation plan. If a man murders by shooting, let him be shot. If he poisons, then force him to take poison, etc. This would be more in accordance with the Jewish law which has so strong a hold upon many Americans.

It would have been regarded as horrible, barbarous, and shocking, if Warden Durston had gone into his victim's cell, and ended his life by a single blow on the head with a hatchet, yet who can give any good reason why such a method would not be as effective and as humane as any now in use? It would take a little more muscular exertion on the part of the sheriff than to cut a rope or to press a button, but his responsibility for the killing would be exactly the same.

For the pleasure of those who believe in death as a punishment, but want it inflicted in the good old manner, by way of the rope, a few descriptions of executions will be given as taken from the daily papers. They will serve at the same time to show that private executions are public enough to be intensely demoralizing.

In May, 1883, Angelo Cornetto, an organ-grinder, was hanged at White Plains, N. Y. A reporter says: "It was a piteous sight. A poor, half-witted wretch was borne to the gallows, shrieking in an agony of fear. His march to the gallows, or rather the way he was forced there, was something terrible. One man, overcome with the sickening sight, fainted and had to be cared for by the police."

On September 9, 1885, between the hours of one and two in the morning, Pat Hartnet was legally strangled in the State prison at Columbus, O.

The evening before, he was taken to the top of the prison walls, that he might see the last sunset on earth for him. He gazed intently for some time at the sinking orb of day, and when it had finally passed from his earthly view for the last time, and a halo lit up the sky, the attendants expected to hear some expression of regret or sentiment; but they were shocked to hear him say: "When that sun goes down again I shall be flying about among the little angels." A paper gives this account of the execution:

"The trap was sprung 1:25 this morning and the victim was pronounced dead one-half minute later. The rope allowed a fall of more than seven feet, and one of the most sickening and revolting scenes in the history of Ohio executions followed. As the body dropped to a standstill, a heavy gurgling sound was heard, and soon the blood in torrents commenced pouring on the stone floor below. The black cap was raised slightly and it was found that decapitation was almost complete, the head hanging to the body only by a small piece of skin at the back of the neck. During the half minute or more that the heart beat, the blood was thrown against the platform above from the exposed gash caused by the head being pulled back on the shoulder. The strong men who had charge of the execution turned to avoid the scene, and stood fixed for a time, looking each other in the eye. Finally, Coroner Carrick, more thoughtful than the rest, though unable to speak above a whisper, called for help to take the body down before it should disconnect from the head and fall. The heavy clothing of the murderer had by this time become soaked and running with blood from every wrinkle and seam. Those who lifted it up until the rope could be untied were smeared with blood, and as the body was lowered to the pools of gore below, the gasping trunk was exposed in all its horror."

On October 16, 1886, John Coffey was put to death by the refined rope method at Crawfordsville, Ind. Its careful reading is commended to those who were so shocked by the Auburn "electrocution," but who still favor the law of blood for blood. A newspaper gives this account:

"The execution of John Coffey at Crawfordsville yesterday was one of the most horrible affairs of the kind ever witnessed. When the drop fell, the rope broke and the body dropped to the ground. The neck was not

broken, but the shock caused the blood to spurt from the wretched man's ears. He was carried back up the scaffold stairs, and, while the rope was being adjusted he regained consciousness and begged to have the cap removed and make another speech. This was refused and the drop fell again. The rope broke a second time, but the body was caught before it reached the ground. It was lifted up and held in place by deputy sheriffs while the noose was again adjusted, when the drop fell again. The rope held and Coffey was slowly strangled to death, dying in twelve minutes. The spectators were nearly overcome with horror."

Andrew Tracy was executed at Smethport, Pa., December 4, 1879.

The ever-present reporter thus describes the beautiful example—set by our law :

" Precisely at 1:45 the Sheriff severed the rope that held the drop and Tracy fell with an awful thud. The knot had not been tied perfectly and the weight of the body caused it to slip out, and the prisoner fell through the drop, striking the stone floor, a distance of seven feet.

" Something like a groan went up from the spectators at this unexpected, horrible accident. Tracy struck on his feet, but in a second, his arms and legs being tied, toppled over on his head and struck the hard wall, relapsing into insensibility. The Sheriff and attendants rushed up, and caught him, and raised him to his feet. Recovering his senses, Tracy exclaimed, ' I forgive all my enemies,' and continued to repeat the litany of his religion. While adjusting the rope a second time he fainted again, and was launched into eternity, unconscious of the means used."

Ward McConkey was hanged in Pittsburgh, in 1882. A paper at far-away St. Louis gave its readers this report of the execution, as a terrible warning to evil-doers :

"McConkey retired about ten o'clock last night, and slept so soundly that he had to be awakened this morning. He ate a hearty breakfast, and, when spiritual advisers visited him, he was as unconcerned as he had been at all times. He ascended the scaffold a few minutes before eleven o'clock, and thirteen minutes later the trap was sprung. On the scaffold he protested his innocence, and, addressing the spectators, said: 'Good-bye, one and all; you hang me because you suppose I know something of McClure's murder, and won't squeal.' Just as the cap was adjusted, he said: 'Good-bye, all ye murderers.' Death was caused by strangulation. Life was extinct in seven minutes. The bearing of the condemned man betokened total indifference, not a single tremor being perceptible. He even laughed as he marched from the jail to the scaffold."

"D——d if I care what you read; you had better go and get a drink to steady your nerves," was what Allen J. Adams, of Northampton, Mass., said to the sheriff on the scaffold as he was told to listen to the death warrant. This remark must have mortified his spiritual advisers.

Jack Allen, who was executed at Monticello, New York, in July, 1885, asked for a drink of whiskey on the scaffold. On being refused, he placed the noose about his neck and gave the signal, "Let 'er go, Gallagher."

Alexander Jefferson was hanged in Brooklyn in 1884. It was a private execution, there being but thirty-two newspaper reporters present, each trying to write up the most sensational account of the affair to spread before the readers of his paper. I quote an extract from the New York *World* report:

"At 9.35 Sheriff Stegman, Under-Sheriff Hodgkinson, and a dozen deputies marched to Jefferson's cell. He was standing in the corridor engaged in prayer, with his

hands clasped in front of him and his eyes turned heavenward. Sheriff Stegman, who was pale and agitated, said feelingly that the hour was at hand. Jefferson sobbingly said that he was ready. The deputies formed a circle around him, and Under-Sheriff Hodgkinson, in a clear voice, read the death warrant. After the reading, Jefferson remarked: 'I have nothing to say but that I trust in God, and that I hope He will take care of me. There is one thing that I have to ask of you, gentlemen, and it is this: make a good job of this, let there be no bungling.'

"The only thing that he dreaded was that the sentence of the law would not be carried out mercifully. He did not fear death, but he dreaded slow torture. He never flinched while he stood under the gallows. He stood firmly. He even smiled at some acquaintances he recognized among the spectators, and now and then with his right hand waved to them a long farewell. At last the sheriff wiped his brow with a handkerchief, and hangman Joe Levy, with a blow of an axe, cut the rope in his den. The two weights, weighing 206 and 120 pounds, fell on the double mattress beyond the partition, and Jefferson's body was raised about five feet in the air. It fell back limp, and those who apprehended a scene were about to express satisfaction at the easy death, when suddenly the body began to writhe in agony. The movements at first were not violent, but presently the legs, which had not been pinioned, were drawn up towards the body, the knees reaching almost to the chin, while the arms were extended pleadingly towards the occupants of the balconies right and left. The legs were again stretched out, and the man kicked furiously and moaned so piteously that a thrill of horror went through the audience. The Sheriff was bewildered. His face turned pale and his eyes filled with tears. The hangman was called from his

pen to witness his clumsy work. He looked at his struggling victim, but said he could do nothing for him. Jefferson freed his hands sufficiently and clutched the noose, but, being unable to loosen the rope, he tore the black cap from his face and stretched out his left hand imploringly toward the audience. The appearance of his face was terrible. After eight minutes of agony, which must have been horrible, the contortions began to lessen, and finally ceased."

Many more such examples could be given, but are these not sufficient to convince any advocate of the death penalty that the rope has been much more horrible than the Auburn execution, and as that shocked the civilized world to so great a degree, will not civilized people agree with Dr. Shrady, who was present at Kemmler's execution, that capital punishment should be abolished entirely? A few editors, since the Auburn execution, advise the use of the guillotine, or sword, to behead those condemned to death, as a more humane method than hanging or electricity. For these let us quote Dr. Frederic Gaertner, of Pittsburgh, as to death by beheading. He says:

"I think a human being killed by electricity suffers less pain than one guillotined or hanged. This fact the microscope has revealed and demonstrated time and again in certain analyzed cases. In the year 1884, while I was at the Hospital Generale de Strassburg, Germany, under the direction of Professor Schwalbe, I was requested to witness a murderer guillotined. The execution took place at Metz, and I was directed by request to hold a post-mortem on the subject. I took particular pains in studying the head, and especially the physiognomy of the subject. Immediately after the head was severed and dropped into the basket, I took charge of it. The facial expression was

that of great agony for several minutes after decapitation. He would open his eyes, also his mouth, in the process of gaping, as if he wanted to speak to me, and I am positive he could see me for several seconds after the head was severed from the body. There is no doubt that the brain was still active, which fact the microscope afterward revealed. Just think of a head severed from the body and still in activity! What suffering he must have gone through by the process of decapitation! His decapitated body, which was previously fastened by a strap upon a bench, was in continuous spasmodic and clonic convulsions, lasting from five to six minutes, also an indication of great suffering. I have no doubt that, had not his body been previously fastened to a bench, he would have gotten upon his hands and feet and scrambled all over the death-chamber."

Beheading is infinitely more repulsive to the average man than hanging or electrocution, but the Japanese murderer, Jugiro, now under sentence of death at Sing Sing, N. Y., begs to have his head cut off with the sword, after the custom of his people in Japan. This is also an argument in favor of the position that hanging is less repulsive to some than electricity, only for the reason that they are accustomed to the one while they are not to the other. To the Japanese, beheading is the least repulsive, because that is the method with which he is most familar.

Is it not time that they are all regarded as too horrible and too demoralizing to be permitted in a civilized government? It is admitted by all intelligent people that sensational, trashy literature in which imaginary crimes are described has a pernicious effect on the minds of the young, but how much worse must be the effect of reading something true, and equally sensational, details of horrible scenes that, for shame, are perpetrated under the sanction

of the law, with a mistaken idea of teaching the sanctity of human life.

The cravings of a diseased imagination or an ignorant perverted taste are caught by the tragic element in these accounts, fascinated by the coolness or bravado exhibited by the victim, and the one who is intended as a fearful example becomes an admired hero. The moral effect of reading such descriptions has often manifested itself in such a way as to leave no doubt of the cause. Several illustrations grew out of the Guiteau trial.

Boys and girls, who read of putting men to death for their crimes, are supposed to be impressed with that solemn sense of dread which will ever after deter them from following in the footsteps of the victim.

Some boys in Norwich, Conn., learning that the hanging of Guiteau was made as popular a spectacle as the law would permit, and that it was invested with more charms than a circus, concluded that they would have a hanging of their own. They procured a rope, made a noose, placed it over the head of one of their number, threw the rope over a limb, and, after the manner of men, left their victim swinging between earth and heaven. Some of the unfortunate lad's friends happened to come upon the scene when he was half dead or the act would have been still more realistic.

In a neighboring State some little girls had caught the spirit of the situation from hearing so much said about the Guiteau case that they concluded to have a little hanging of their own. Having no boy to hang, they took a large doll, which answered the purpose very well, only they were not satisfied because it did not kick and struggle.

No one doubts that the example set by government in taking life has an influence, and any one who has studied the subject with any care cannot doubt that the influence is evil and only evil.

CHAPTER X.

FEAR OF THE DEATH PENALTY.

There is no passion in the mind of man so weak but it mates and masters the fear of death. Revenge triumphs over death, love slights it, honor aspireth to it, and grief fleeth to it.—BACON.

THOSE who condemn the death penalty differ somewhat in the reasons for their opposition. Some maintain that the state has no right to take life under any circumstances, and that when it does so it always commits inexcusable murder. Others grant that the government, in cases of assumed necessity, may be justified in taking the life of its subjects, but deny that any such necessity now exists in their respective states, and declare that the punishment should cease.

Government itself is a necessary evil, adopted and endured only to escape the greater evils of anarchy. Each subject is supposed to surrender certain rights to his government, in return for which it is to protect him in life, liberty, and property.

The Declaration of Independence lays down the principle that governments derive their just powers from the consent of the governed. The governed, of course, are not supposed to grant any rights that they do not possess, and unless they have in themselves a clear right to take their own lives it is not easy to see where a just government acquires such a right. In other words, all

the just powers of a government are delegated powers; but the subject cannot confer upon his government the right to take his life unless he has the right to commit suicide, and suicide is universally regarded as wrong, and in many countries considered a crime.

Suppose a man is suffering from an incurable disease, and it is absolutely certain that his life cannot be prolonged beyond a few days at most. In order to experiment in the interests of humanity and his profession, his physician offers to pay this man's family a sum sufficient to keep his wife and children from want, and at the same time relieve him from his intense sufferings, if he will give up his right to live, and let the physician take his life. The man, anxious to escape the torture of the disease, and at the same time to provide for his family, cheerfully agrees to the terms. Now what sort of a release or contract shall he make? Suppose they call in a lawyer who, after understanding the situation, draws up a legal contract with all the usual legal verbiage after this fashion:

Know all men by these presents, that I, John Smith, being of sound mind and legal discretion, for value received have this day bargained, sold, assigned, released, disposed of, conveyed, transferred, and set over, and by these presents do hereby grant, bargain, sell, assign, release, transfer, and set over to Dr. Sawbones, his heirs and assigns, all my right, title, interest, claim, and privilege of whatsoever kind, in and to my life and body, and the same is hereby surrendered, for the consideration aforesaid, to the Doctor aforesaid, to be his to have, own, control, and defend against all persons whatsoever. And I, the said grantor, for myself and my heirs, executors, and administrators, do covenant with the said grantee, his heirs and assigns, that I am lawfully seized in fee of the life and body aforesaid, that they are free from all

claims or incumbrances, that I have a good right to sell and convey to the said grantee, his heirs and assigns aforesaid, and that I will, and my heirs, executors, and administrators shall warrant and forever defend said grantee, his heirs and assigns, against the lawful or unlawful claims of all persons. Witness my hand and seal this first day of August, 1890. (Signed) JOHN SMITH.

Would such a surrender as this, if the contract were carried out, relieve Mr. Smith from the charge of suicide, or Dr. Sawbones of the crime of murder? By no means. If the doctor wants a right to take Mr. Smith's life, he must get it from some other source. Where does the state get the right? If Mr. Smith could not grant the privilege to the doctor to take his life, when he wished to do so and tried to do so, how could he have conveyed any such right to the government when nothing was ever said to him in regard to it? It will hardly be claimed that the state has the right to a man's life because it protects him in certain respects; for that would be like claiming ten dollars for guarding a twenty-five-cent piece.

Government has no right to take life. It simply usurps such power as an arbitrary privilege based on assumed necessity; for necessity knows no law, and does not concern itself about the right.

I have no inclination to let the subject rest on the question of right. It is not necessary to do so in order to show that the government should not kill. The only question to be decided is, does the death penalty make life more secure? Would the crime of murder be less frequent, or no more frequent, if the state should cease to set the example of killing? This is the issue, because the most ardent advocate of the gallows will hardly insist that life must still go for life, even if by such a policy society is made less secure from the murderer.

In discussing this subject we have to deal with theory and also with practice, so far as experience makes practice a subject for consideration.

Aside from the Bible argument for the death penalty, the idea that threatened death to those who commit murder is a powerful deterrent, that it is, in fact, the only consideration that keeps bad men from killing their fellows, is the only reason advanced in its favor. The influence of punishment in keeping men from crime is greatly overestimated, and none understand this so well as those who have made the subject a careful study, both in theory and in practice.

At the National Conference of Charities held at Louisville, Ky., in 1883, the report of the standing committee on crimes and penalties, prepared by seven members, all persons of ability, and experienced in dealing with criminals, contained the following paragraph :

"The inefficiency of criminal punishments to repress crime at present and throughout the ages is believed to be largely attributable to the spirit of retaliation that pervades them ; at least it may be safely said that the deterrent principle, if not an entire failure, has not yet found its true place in public punishment for crime. The sanguinary punishments of all history are accompanied with numerous crimes, while offences have diminished as penalties have been softened. Neither amphitheatre, stake, nor cross, nor sewn alive with serpents in the sack and thrown into the sea, indeed nothing of penalty that human ingenuity could devise, has prevented crimes to any observable extent."

This is the opinion of most persons who have made penology a life-long study, and, as we take the opinion of the lawyer on a legal point or accept the advice of a physician on a question concerning disease, why should

we not accept the conclusions of men whose time and study are devoted to crime and criminals, with equal confidence on questions of penal jurisprudence?

What are some of the motives that lead men to commit murder? Among the most common may be named, desire of revenge, desire of getting money, the intention of concealing another crime, or the purpose of removing some one who stands in the way of a desired object. There are killings that come from quarrels, riots, etc., done in hot blood, which do not come under the head of murder in the first degree.

In order to arrive at any correct conclusions we must try to see the case from the view-point of the murderer himself. If any man takes the time necessary for deliberation to make his crime murder in the first degree, what is likely to be his line of thought? Will the penalty attached as a punishment enter at all into his consideration of the case?

That depends upon the character of the man, the degree of his malignity or the intensity of his purpose. There are some men so constituted that they would scarcely give a serious thought to the probable result of their action. A determination to have revenge, or whatever their object might be, would overcome every other consideration, and they would carry out their evil purpose, no matter whether the punishment be burning at the stake, or simply fine and imprisonment.

Others, and perhaps the large majority, would think of the threatened punishment. Suppose they do. Knowing that a severe penalty is attached, will not remove their evil desire to commit the deed. It simply puts them to devising ways and means to escape detection. When they have settled this to their satisfaction, they will no more hesitate to perpetrate the deed than they would if

there were no punishment, because they have convinced themselves that they can escape the legal penalty. The man who has nothing but the fear of punishment between him and murder, has only the chance of escape to consider. When he has this arranged to suit himself, the act will be committed, because what matters it to him whether the punishment be light or severe, so long as he confidently expects to escape the penalty entirely?

But admit that he may have some doubts as to escaping. How much more of a terror will threatened death be to him than threatened loss of liberty for life, with vastly more chances of being convicted under the second penalty than under the first? Will not that man who, after careful consideration, puts the total and perpetual loss of liberty against the commission of a crime, commit that crime though the penalty is death?

Beccaria says: "Perpetual slavery has in it all that is necessary to deter the most hardened and determined as much as has the punishment of death. I say it has more. There are men who can look upon death with intrepidity and firmness, some through fanaticism, others through vanity which attends us even to the grave, others from a desperate resolution to get rid of their misery and cease to live."

Life has strong claims upon the healthy, the industrious, the happy, and the good, but to the diseased, the indolent, the poverty-stricken, and the vicious, it is oftentimes a sad mixture with more misery than pleasure, and is frequently regarded more as a curse to be thrown off than a blessing to be cherished.

Indeed it puzzles most intelligent men, when they come to study the problem of life, to decide whether, taken as a whole, it is really worth the living. Three able writers in 1887 discussed the subject in the *Forum*, and the one

who reads their articles will in all probability be left more in doubt on the question than he was before.

Mr. Romanes in his article says: "It appears to me that the great objects of life are to love and to think." He regards the emotional happiness of love and the intellectual happiness of thought, as the two things that make life worth living.

Mr. Allen in his opinion puts the case thus: "Life, as a whole, has no object any more than the revolution of the planets has an object."

Then after discussing the subject at some length he adds: "But if human life has, in this restricted sense, any general object at all, any conscious object present to the mind of the individual, that object is undoubtedly happiness."

The third writer, Mr. Mallock, after objecting to all the others have set forth, remarks: "It seems to me that the statement that life has some common object can be given a logical meaning by theism alone; by a belief in God and a belief in a future life."

Hence it seems that life is considerable of a conundrum. Three scientific men, trained to habits of thought, study, and observation, in attempting to point out the things that give existence an object and make it desirable, fail to present reasons that do not leave a very large portion of humanity out of their consideration.

Take Mr. Romanes' idea, that to love and to think are the redeeming qualities in the battle of life, what a small class he takes in.

Lavater says, "Thinkers are as scarce as gold," and he might have added that true lovers are almost as rare. It will be admitted that in many cases the emotional feeling of love does not rise much, if any, above the sexual instinct of the brute. What love means to the woman

hater is not what it is to the Mormon elder with his six wives, nor to him, what it is to the man who truly loves one congenial companion with all his soul.

Some men's power to think is very limited, and even when they possess the thinking ability in a high degree, its exercise cannot give pleasure, unless there is something in their circumstances to induce pleasant thoughts. The man who can think and love, and have only pleasant subjects of thought, and intelligent, congenial companions to love, can have a heaven almost anywhere; but many men are forced to toil all day and lie on sleepless beds at night, their thoughts irresistibly drawn to the harsh, evil things of life, until it would be a kindness to deprive them of the power to recollect or anticipate. What pleasure can thought bring to the man who has lost health, friends, and home? Thinking has driven men mad.

Take Mr. Allen's view, that happiness is the object that makes us willing to bear the ills of life. This is only a modification of Mr. Romanes' idea. One is the effect, the other the cause. If happiness be the consideration that makes life worth living, there are many who hold to the vital spark by a very slender thread; for multitudes scarcely know what the word means.

Byron is said to have declared that he had never known more than twelve happy days in all his life.

Mr. Mallock's theory, that a belief in God and a future life are the conditions necessary to give existence an object, leaves a large number without a purpose in life. What of those who believe neither in God nor a future life, and of the still larger class whose ideas of God are so vague, and whose doubts of a future life so strong, as to have but little influence over their actions?

The fact remains that life has but little charm for a large class of persons, and they are those, too, from whose

ranks the criminal class is largely recruited. Are they the ones who can be frightened at the threat of death? Is the terror of death the only thing that can protect us from the assassin's bullet? Is the threat of death, that which has been a guest in almost every household, something that all of earth's billions past have suffered and all its billions to come must undergo, so terrible a menace as to stay the murderer's arm?

Where was the fear of threatened death when a million men stepped forth at the call of Abraham Lincoln to meet the grim monster on the field of battle or in the sickly camp? Whether they went from patriotism, for glory, money, or adventure, the fact that they did go, and that they faced death, proves that threatened death does not terrify men, especially when there is a chance to escape.

We are all under sentence of death, not only a sentence that threatens death and one that may or may not be executed, but one that we know shall surely be carried out. Every thunder-storm that crosses the sky threatens death and frequently brings it. There is between every human being and death but a tissue as thin as a sheet of paper, which, if ruptured, will be as certain death as to be struck by a thunder-bolt. There are more than three times as many suicides as executions, showing that death, at least to some, is not the greatest terror of life. The fact that we hang from a hundred to a hundred and fifty murderers every year, with murder constantly increasing, is some indication, at least, that the fear of death as threatened by law is not a success in restraining men from murder. Death appeared terrible to Cicero, indifferent to Socrates, and desirable to Cato.

A writer, in discussing "Tenement-house Morality" in New York City, says: "Death, from its frequency and the coarseness that surrounds it, loses, if not all its terrors,

at least its dignity, and is regarded as one of the many disagreeable incidents of life, hardly worthy even of idle curiosity."

This writer makes a strong point, unconsciously perhaps, against capital punishment. The coarseness, yes, the brutality, displayed in dragging men to the scaffold robs death of its true terrors.

Fear, as a deterrent to evil-doers, has ever been a failure both in church and state. The doctrine that a violation of divine law shall surely bring endless punishment in the literal flames of hell was preached from nearly every pulpit a few years ago, and is still cautiously advanced by a few ministers whose sweetest comfort seems to be threatened in the abolition of the hell of our fathers. The doctrine of an endless brimstone fire was preached long after it was disbelieved, because it was thought the end would justify the means, and that the fear of the wrath of God was the only thing that would induce men to keep in the straight and narrow way, but it is generally admitted now that it is impossible to tell from a man's conduct whether he believes in the old-fashioned hell or in the modern Sheol, or in no hell at all; and the plan of trying to scare men into heaven has been given up as a failure by intelligent ministers and philanthropists.

If the threat of eternal death when thundered from the pulpit with all the eloquence of religious fervor, and from which there was thought to be no escape, did not keep men from evil, how vain must be the threat of temporal death, from which there are so many chances of escape.

It is not what the prospective murderer thinks of death so much as what he thinks of life, that concerns society. The respect for life stays the arm of him who has murder in his heart a hundred times, where the fear of death steps in but once.

It is not so much the fear of punishment, as respect for the rights of property, that keeps men from stealing. Almost any man has frequent opportunities to take things of value without the least danger of detection; but if he has the proper respect for the rights of property such a thought as stealing never enters his mind. We can trust the man whose ideas of the rights of property are sound, without laws against theft. We may safely trust the man who has the proper reverence for human life, without any law for the punishment of murder. And now the question properly arises, how can this respect for life best be inculcated?

What would be thought of the idea of burning the house of the man convicted of arson, to teach him that it is wrong to destroy property?

Would not this be in exact keeping with the idea of killing a man to show some other man that human life is sacred?

All law should teach, not only by precept, but by example, that human life is sacred at all times and in all places; in the hovel of the poor as well as in the palace of the king. Government should teach that the life of its meanest subject, even the life of the murderer, is nevertheless a God-given life, too sacred to be taken in retaliation. It is the respect for life and not the fear of death that must be taught, if we would have violation of life become scarce. The harshest laws ever enacted by man, and the most cruel punishments ever inflicted, have failed to lessen the crime of murder.

It has been claimed that the state commits a greater wrong when it takes the life of a subject than does the individual. The individual may plead drunkenness, but the state does not get drunk. The individual may plead poverty or ignorance, but the state is rich and claims to

be wise. The individual may say that his evil propensities overcame his moral power, but will the state dare to make such an excuse? Neither can the state plead self-defence, as men may do in cases when they are justified in killing an assailant.

Some go so far as to doubt whether a man has even the right to kill another in self-defence; but such an action, if not strictly right in the abstract, is certainly justifiable. Self-preservation is the first law of nature, and when a man's life is in danger he cannot be regarded as acting from thought so much as from impulse. Again, every man is morally bound to protect his life, and if it is simply a question as to which life is to be taken, his own or that of the assassin, he surely is justifiable in defending his own even to the extent of taking the other.

Suppose, however, that the man who is attacked overpowers his assailant, binds him hand and foot, and then deliberately chokes him to death. Instead of justifiable self-defence his act becomes premeditated murder.

Society is attacked by a murderer and one of its members slain. The state in self-defence captures the aggressor, manacles him, and puts him behind iron bars. Has it not then reached its justifiable limit of self-defence? If after this it strangles him, does it not stand exactly in the position of the man who kills his bound victim?

When the individual kills a human being it is assumed to be a case in which the guilty slays the innocent; when the state kills one of its subjects, it is, presumably, a case in which the innocent slays the guilty. Both are premeditated and deliberate. Does the innocence or guilt of the one who is put to death determine whether the act of taking his life is a crime or a deed of righteousness? If the best minister in the world should deliberately kill the most wicked man of his acquaintance, under the impres-

sion that it was his duty to rid the community of a dangerous character, would not his act be murder?

Clearly, then, neither the character of the one who kills nor that of his victim has any thing to do in defining the crime of murder. There is no man so low and worthless that his life can be wilfully destroyed by any man, no matter how good that man's intentions nor how high his character, without constituting the act murder. If murder, then, depends neither on character nor intention, how shall the state excuse itself for imitating the individual who kills? If no individual can have an intention sufficiently good to justify him in taking the life of his fellow, just how many individuals does it take "to lay their heads together" and form an intention that shall justify their deliberate and wilful act in putting one of their number to death?

The argument that the murderer must be put to death as an example savors too much of the Middle Ages to deserve a serious answer. The state has no right to kill one man to scare another. Let every one answer only for himself.

It has long been admitted by capital-punishment advocates that it is the certainty rather than the severity of the punishment that restrains evil-doers. The vicious will run the risk of committing a crime under a severe law that is not likely to be enforced, rather than take the chances under a milder penalty that is certain to follow the offence. If the murderer felt sure that death would be speedily inflicted as the result of his action, he would not, in a majority of cases, commit the deed. Or, if he felt sure that he would lose his liberty during life, he would abandon his purpose. The penalty is deterrent just in the ratio of the chances to escape its infliction.

It is well known that the death penalty is a most difficult one to enforce. No matter what the cause may be,

whether it arises from what some are pleased to term a morbid sentiment, or from an enlightened conviction that it is wrong, the fact remains undisputed that a large proportion of murderers escape entirely, or with a verdict of a lower degree than their crime deserves.

The sentiment of every enlightened people is against the infliction of the death penalty. Whether they are conscious of the fact or not, they will raise doubts, not justified by the evidence, to avoid assuming the responsibility of condemning a fellow-creature to death, a responsibility which most men feel is too great for erring man to take upon himself.

In Chicago the number of homicides in 1882 was fifty-four, and but one man was made to suffer the penalty for murder in the first degree.

The *Inter-Ocean* makes this statement: "There were three thousand five hundred and sixty-seven cases of murder and homicide in this country last year, and only ninety-eight hangings. With such a record there is little occasion to find fault with the Legislatures that are trying to change the law regarding capital punishment, and make imprisonment for life the greatest punishment known to law. There is really more hope of a disagreement of the jury of a murder trial than of any other."

The Chicago *Times* recently published a table showing the number of homicides in the United States for six years past, and also the number of legal executions and lynchings. The record shows that one homicide in twenty-seven was punished with death legally, while private vengeance was inflicted in one case in fifteen. The lynchings were, of course, murders too, as the victims had not delegated the right to the lynchers to take their lives, as they are in some mysterious, inexplainable manner supposed to do to the state.

Seventeen hundred and sixty cases of wilful murder were reported by coroners in England during the ten years ending with 1888, and but two hundred and ninety-five of these were punished by finding a verdict of murder in the first degree.

Sergeant Barry, of England, says: "There is nothing more difficult than to obtain a verdict of guilty from a jury where the charge is murder. Frequently, when an English jury finds it cannot ease its conscience by bringing in a verdict of manslaughter, it lets the prisoner go free."

Sir James Mackintosh is authority for the statement that one innocent man is hanged, on an average, every three years in England. This fact, taken in connection with the responsibility men feel about "breaking into the house of life with bloody hands," makes it hard to convict a man of first-degree murder.

Max O'Rell declares: "The idea of capital punishment is abhorrent to the French, and the jury always will try to find extenuating circumstances to avoid sending a fellow-creature to the guillotine; and even when their consciences will not allow them to find these extenuating circumstances, they fondly cling to the hope that the President of the Republic will commute the sentence of death to one of imprisonment for life."

Charles Dickens well describes the sentiment that is likely to influence the juror in a murder trial. In one of his letters, entitled "How Jurymen Feel," he says:

"Juries, like society, are not stricken foolish or motionless. They have, for the most part, an objection to the punishment of death, and they will, for the most part, assert it by such verdicts. As jurymen in the forgery cases, where jurors found a £10 note to be worth 39*s.*, so as not to come under capital punishment, would probably reconcile their verdict to their consciences by calling to

mind that the intrinsic value of a bank-note was almost nothing; so jurymen, in cases of murder, probably argue that grave doctors have said all men are more or less mad, and therefore they believe the prisoner mad. This is a great wrong to society; but it arises out of the punishment of death. And the question will always suggest itself in jurors' minds, however earnestly the learned judge presiding may discharge his duty: 'Which is the greater wrong to society—to give this man the benefit of the possibility of his being mad, or to have another public execution, with all its depraving and hardening influences?' Imagining myself a juror, in a case of life or death, and supposing that the evidence had forced me from every other ground of opposition to this punishment in a particular case than a possibility of immediate mistake or otherwise, I would go over it again on this ground, and if I could, by any reasonable, special pleading with myself, find him mad rather than hang him, I think I would."

Theory teaches that destroying life to save it must fail in its avowed object, and experience confirms it.

Executions have been going on right along in this country ever since its settlement, and they now average over a hundred a year; but murder is increasing all the time in a greater ratio than the population.

Murders are perpetrated beneath the very shadow of the gallows, a new candidate sometimes putting on his predecessor's manacles almost before they are cold. Following are some newspaper extracts, picked up without any special effort to find them, showing what the dread example amounts to as a terror to evil-doers.

The Chicago *Times*: "Within forty-eight hours after the hanging of the three assassins in the county jail, two men died in this city, the victims of murderous assault.

Another was assaulted and escaped death by mere accident. If Chicago does not fail in its usual average, the deaths from homicide at the end of the week will considerably exceed the number of murderers killed off in the same time."

New York *Star*: "Four men, three white and one colored, were hanged in the Tombs yesterday morning. It might be supposed that this terrible vengeance of outraged law would have at least a solemn effect upon the class whose ways and associates are leading them toward the gallows or the prison, but the night before the execution and just across the street from the Tombs, a gang of toughs passed the time in singing ribald songs and making vulgar remarks about the execution so soon to take place. The leader of the gang was hanged about a year ago."

Wilkesbarre *Record*: "The impressive lesson of yesterday's gallows tragedy in the jail-yard of this city did not prevent a murderous assault upon a citizen of Plymouth, who attended the execution of Volkavitch in the morning. At an early hour he was found in an unconscious condition, with frightful cuts upon his head, under the trestle of the Delaware and Hudson railway."

Pittsburgh *Telegraph*: "The lesson which may be wrought from capital punishment, so closely following the execution of McSteen, was poorly learned in Allegheny yesterday. While McSteen was hanged for the murder of his partner in marital life, John Brown, a business partner with Henry Weaver, killed him because of a dispute which involved a woman and a horse. The tragedy was one of the most bloody and determined that ever was enacted in this vicinity."

Pittsburgh *Times*: "The hanging of four men in New York on Friday has been followed by as many murders in the vicinity since. The force of the admonition seems

to have been lost on those for whose benefit hanging, it has been held, is the proper medicine. That branch of the argument, it is clear, will have to be abandoned. Perhaps better success would attend a search for the causes of murder, that a corrective might be administered. Dealing with the man who sold the whiskey might be an experiment worth making."

Philadelphia *Press*: "On Friday last two men were hanged in New York for murder. On the following Sunday an Italian in that city stabbed another Italian to the heart, and a patrolman at Long Island City killed a police sergeant. There is no doubt about the efficacy of capital punishment, so far as the particular culprit is concerned. He cannot murder any one else. But the argument of the death penalty as a warning to other criminals is weakened by such occurrences as these two Sunday murders immediately following a double execution."

The Rev. William Roberts, of Bristol, England, visited one hundred and sixty-seven convicts under sentence of death, and of these one hundred and sixty-four had witnessed executions.

"Every execution," said Dr. Lushington, in Parliament, "brings an additional candidate for the hangman."

Hume says that seventy-two thousand thieves were executed in England during the reign of Henry VIII., and the bloody exhibition did not diminish the crime.

The whole number of executions under the reign of Elizabeth, Henry's successor, is said to have been nineteen thousand, and the historian has it, "People persevered in their felonious sleights and devices."

More crimes were denounced as capital during the reign of George III., than in the reigns of the Plantagenets, Tudors, and Stuarts combined, yet the increase of crime never was so rapid as in the latter part of the

reign of George III. The committals were more than doubled from 1814 to 1817.

Following is an editorial taken from the Pittsburgh *Times* a few days after the Kemmler execution at Auburn :

" Murders since Kemmler was killed have continued, and it is believed they have increased more rapidly than ever. Capital punishment, therefore, does not deter evil-minded persons from killing their fellows, notwithstanding pains have been taken to cause the particulars of the most recent execution to be as impressive as possible—that is, if what is most shocking be extraordinarily impressive. There has been a failure in recent experience as to the purpose of capital punishment, if it was meant to deter from the commission of crime. Common-sense teaches that capital punishment should be abolished, or the reasons for the failure found out, and the practices changed accordingly. With half a score of murders since Kemmler was killed, which is a decided advance on the average, it is clear that killing murderers is not a useful proceeding, and society is in increasing danger. By every principle of public policy we are bound to consider all matters in the light of experience. Where the experience is as pointed as at present, we are equally bound to act promptly.

" The facts do not forbid, even if they do not justify, the conclusion that capital punishment stimulates murder, and that its early abolition is demanded for the gravest reasons. Here we have the fact that murders increase in number while capital punishment goes on. This must be admitted and dealt with like any fact in science, legal or medical jurisprudence, or whatever else concerns public policy relating to the good of society. It cannot be shirked any more than were the admitted increase in incendiarism or the approach of pestilence the case.

"It is as actual as any other fact, and much more alarming than many another that frequently excites the public mind. It is to be dealt with, and cannot well be safely ignored."

Similar statements might be given, almost without number, but it is not necessary. The fact has been demonstrated over and over again that the "scare" theory of the death penalty is false, and that in practice the punishment of death tends to suggest rather than to hinder murder. The half score of murders referred to by the *Times* have all been committed in the vicinity of Pittsburgh within a month of Kemmler's execution. The number of murders and attempts at murder in the State of New York, as reported in the *World*, within thirty days after Kemmler's execution, was twenty-four, and in New Jersey, ten. The horrible example seems to have had the usual effect.

CHAPTER XI.

THE VOICE OF EXPERIENCE.

> Experience joined to common sense
> To mortals is a providence.
>
> GREEN.

SOME men are willing to accept a sound theory as a sufficient basis for a course of action; others, believing that one fact is worth a hundred analogies, insist on knowing "how it works" before they will give up the old for the new, while some are so constituted that offering undeniable facts to controvert their position will fail to put their minds in harmony with the spirit of progress. They are like the Scotch member of Parliament who said he had heard "mony" a speech that convinced his judgment, but never one that changed his vote.

Some persons seem willing to believe unreasonable statements, if they happen to be of a congenial kind, but refuse to accept others much more worthy of credence. When the sailor boy told his mother that he had seen flying fishes, she resented his story as an insult to her good sense, but accepted in good faith the young rogue's account of having seen one of Pharaoh's chariot wheels drawn up from the bottom of the Red Sea on the fluke of an anchor.

Patrick Henry, in his celebrated speech before the Virginia House of Delegates, declared that experience was the only lamp by which his feet were guided; but expe-

rience is, to many, like the stern light of a ship at sea, which, as Coleridge says, serves only to illumine the pathway over which we have passed.

Those who are waiting to learn that the abolition of the death penalty has shown good results, before they declare themselves in its favor, can easily find facts to justify such a declaration. This ought to be conclusive, too, for, if a man's reason does not teach him that the way to protect life is not to set the example of destroying it, his intelligence and honesty should, at least, lead him to recognize the truth when clearly demonstrated by the statistics of experience.

In listening to some men's defence of the punishment of death, we should be led to suppose that no state or country had ever abandoned it for an hour or would ever dare to do so, while others who know that it has been abolished in some states, without the semblance of truth on which to base their assertions, declare that murder has increased wherever the milder law has been substituted. Some editors seem so anxious to convey the impression that the abolition of capital punishment has been tried and found wanting, that about once a year we may look for the statement that Michigan or Wisconsin or both have reinstated the old penalty. Last winter this statement was made in so many papers that, much against my inclination, I took it as true that Michigan, after an experience of more than forty years, had gone back to the antediluvian method of punishing the crime of murder. After beginning work on this book, I wrote to Warden Hatch, of the Jackson, Mich., State prison, asking for the causes that led to the re-enacting of the death penalty. Mr. Hatch, in his reply, says:

"Capital punishment nas not been re-instated in Michigan. Michigan is a poor Shibboleth for capital-punish-

ment advocates, for it is about the only State in the Union that shows a decided falling off in the criminal population. I believe it impossible to re-instate the law here."

The civilized world is tending toward the abolition of the law of death for crime, and the number of executions is constantly decreasing.

In Switzerland the death penalty has been abolished in all but two or three cantons since 1874, and the results have proved entirely satisfactory to the friends of the new law.

Legal killing was abolished in Nassau in 1849, and the statistics show no increase in the number of murders, but more certainty in their conviction. The courts when questioned by the government have uniformly recommended that the old law be not re-instated.

In Oldenburg the law of retaliation has been abrogated, and with most satisfactory results.

No executions have taken place in Finland since 1824, and murders are extremely rare. The subjects are imbued with the example as well as the precept of the state that human life is sacred.

Holland abolished the law of blood for blood in 1870, and the number of murders has decreased, notwithstanding the increase in population. Between 1861 and 1869 there were nineteen murders, but between 1871 and 1879 the number was only seventeen.

The death penalty was annulled for a period of twenty years in Tuscany under the Grand Duke Leopold. Bonaparte had it re-instated, but it was again abolished in 1859. The statistics show that fewer murders were committed during both periods when death was not inflicted than in the same number of years when the gibbet was in use.

Portugal, Roumania, Italy, and San Marino have abolished capital punishment with gratifying results.

In Belgium and Bavaria death is so seldom inflicted, as a punishment, as to amount to practical prohibition, and the crime of murder has decreased in comparison with other offences.

In Norway, from 1869 to 1879, fourteen persons were sentenced to death, yet only three executions took place. In the same period, Sweden passed death sentences in thirty-two cases, while only three were carried out.

From 1870 to 1879, Austria had sixteen executions out of eight hundred and six death sentences.

Denmark, from 1870 to 1880, passed sentence of death on ninety-four persons, but satisfied her conscience with a single execution.

During the same period, Germany convicted thirteen hundred and one persons of murder, sentenced four hundred and eighty-four of them to death, but was satisfied with the actual death of but one, Höedel.

Of two hundred and eighteen sentenced to death in Germany, from 1864 to 1868, the emperor commuted the sentence of all but twenty-six to life imprisonment.

In England, during a recent ten-year period, of two thousand and five persons charged with murder, but six hundred and sixty-five were convicted, and of these but three hundred and seventy were executed.

The number of executions has been steadily decreasing in France. In the first quarter of the century the average was about one hundred and twenty a year, and in the second quarter it was but forty a year. From 1850 to 1860 the number was but twenty-eight per year, and from 1860 to 1879 it had been reduced to an average of ten a year. An effort was made recently to abolish it entirely. About forty deputies, including Louis Blanc, submitted a bill in which they gave the following reasons for wishing to abolish the guillotine;

"That the right to inflict an irreparable punishment implies an infallible judge; that to inflict death is a bad way on the part of society to inculcate respect for life, and, consequently, of arresting the arm of the murderer; that the spectacle of the blood shed by the executioner hardens perverse hearts, and is an obstacle to that refinement of manners which should be the result and is the sign of an advanced civilization; that the punishment of death has been condemned by the greatest criminal lawyers; that the countries where it has been abolished have only to congratulate themselves on its abolition; that the punishment of death, in a word, produces effects in every way contrary to those expected by its partisans."

In the United States there are about two thousand five hundred persons tried annually for murder, with an average of about a hundred legal executions. The Chicago *Times* gives fourteen thousand seven hundred and seventy as the number of murder trials from 1884 to 1889 inclusive, with five hundred and fifty-eight legal executions.

There are five States of the Union whose soil is no longer stained with judicial blood, and if the experience of these States has been innocently and profitably gained, if the results are such as to lead to the conclusion that legal killing stimulates illegal killing, then surely capital-punishment advocates should be willing to abandon their cause.

What does experience say in the cases of these States that were progressive enough, humane enough, and wise enough to break away from the heathenish practice of putting some of their subjects to death in order to teach others respect for life and law?

Maine abolished the old law, March 17, 1887, and in the three and a half years since has convicted three persons of murder in the first degree. Minnesota, with

less than twice the population of Maine, has had seven executions in less than three years. I name Minnesota for the reason that the experience of these two States has been somewhat similar on this question. Maine once abolished the death penalty, then re-instated it, and then again abolished it. Minnesota abolished it a few years, and then re-enacted it.

It is very likely that at least one, perhaps two, and possibly all three, of these Maine murderers would have escaped had the punishment been death, and it is just as likely that the number of convictions in Minnesota would have been more than doubled had the punishment been imprisonment; but take the figures as they are, and if Maine in three years and a half lost three lives through murder, how many should Minnesota, with twice the population, lose in three years? The mathematical answer is five and one seventh, but the answer of fact is fourteen. Maine lost the lives of three murdered persons, while Minnesota lost the lives of seven murdered subjects and the lives of seven who were strangled on the scaffold.

Rhode Island annulled the barbarian method of punishing murder in 1852, and from that time to the present, a period of thirty-nine years, the number of convictions for murder in the first degree is thirty-four.

Though the population of Rhode Island increased seventy-five per cent. from 1860 to 1870, the number of convictions for first-degree murder was seven as against nine the ten years previous, or a falling off of over twenty per cent. From 1870 to 1880 the population increased twenty-seven per cent., but the number of convictions was eight, or an increase of but fourteen per cent. over the ten years before. From 1880 to 1890 the increase of population was twenty-five per cent., and the increase in the

convictions for murder was twenty-five per cent. In the first nineteen years after the new law was enacted, sixteen persons were convicted of murder in the first degree, while in the last twenty years, notwithstanding the increase of population, the number of convictions has been only eighteen. Surely Rhode Island has no reason to regret her forty years' experience under the law that forbids an eye for an eye and a tooth for a tooth.

Wisconsin substituted life imprisonment for death as a punishment in 1853, and she corroborates the testimony of Maine and Rhode Island that murders are less frequent when the State refuses to set the example of killing. From 1853 to 1870 inclusive, a period of eighteen years, the number of convictions for murder in the first degree in Wisconsin was fifty-one. The population in the next eighteen years had increased over fifty per cent., while the number of convictions was seventy-three, or an increase of forty-seven per cent. It cannot be that any man in Wisconsin would feel safer or better to have the black shadow of the gallows again darken his State.

Iowa abolished capital punishment in 1872, but partially restored it in 1878, by giving juries the power to decide whether the punishment for wilful murder should be death or imprisonment. Why the Legislature should have done this can be explained only on the ground that the Iowa Legislature, like most others, enacts some unwise measures. A prominent member of the Iowa Senate in 1876, in speaking of the abolition of the death penalty said: "Murder in the first degree has not increased, but has for four years decreased. Previous to the repeal of the old law there was a murder for every 800,000 people. For four years since the abolition there has been one for every 1,200,000." What better results could have been expected?

A letter from Marquis Barr, warden of the Anamosa, Ia., State prison, has this to say in reference to the case: "It is true our State has had two or three flops on the death-penalty question. The only reason I can give is that the members of the different Legislatures took different views of the matter. I think the abolition of the death penalty had a fair trial and should have convinced the people that it was a good law. We certainly have not had fewer murders committed since capital punishment was re-instated."

Michigan claims the honor of being the pioneer State in the great reform, having swept the death penalty from her statute-books in 1846, and for nearly half a century has demonstrated that she can protect the lives of her subjects without putting any of them to death. She has reason to feel proud of her record. Mr. Jerome, in writing against capital punishment recently, declares that in a period of eight years Michigan had fewer murders than the city of New York in a single year.

The report of the Michigan State prison for 1874, the latest one I have been able to obtain, shows that in the first thirteen years and a half under the new law the number convicted of murder in the first degree, in the State, was thirty-seven. The next thirteen and a half years the number was but thirty-one, though the population of the State had more than doubled. This ratio, taken in connection with the fact that convictions are much more certain under the new law, is an overwhelming argument against the teachings of the gallows. State-Prison Inspector N. W. Clark, in 1859, in speaking of the law in Michigan, said that those best qualified to know estimated that not more than six men would have been convicted in the thirteen years since the abolition of the death penalty, had it been in force.

It is not fair to compare the number of convictions for murder in the first degree in States that hang with the number in States that do not, to show the effects of the two methods of dealing with the murderer, but unfair as the comparison is, it still is an argument against the gallows.

It needs no argument to prove that convictions for murder are more easily and frequently secured in States where the penalty is imprisonment than where it is death. The convictions in England for crimes and misdemeanors other than murder in the first degree are seventy-six per cent. of the number tried, but in capital cases they fall to thirty-three per cent.

The Chief-Justice of Rhode Island says: "My observation justifies me in saying that conviction for murder is far more certain now in proper cases than when death was the punishment."

Professor Francis Wayland has collected statistics that illustrate the difference between convictions for murder in States where the gallows-tree flourishes and in those in which it does not. He compares Massachusetts and Connecticut with Rhode Island. The comparison is a fair one, because the States are contiguous and the occupations and character of the people similar. In Connecticut, from 1850 to 1880, a period of thirty years, ninety-seven persons were tried for murder in the first degree, and but thirteen of the number, or a little over thirteen per cent., were convicted as charged.

In Massachusetts, from 1862 to 1882, a twenty-year period, the number tried for murder in the first degree was one hundred and seventy, with twenty-nine convictions, or seventeen per cent. of the number tried.

The convictions in Rhode Island the thirty years after abolishing the punishment of death were sixty-three per cent. of the number tried.

Pennsylvania in the last ten years has sentenced sixty-four men to death. If the punishment had not been death the number of convictions in Pennsylvania, on the basis of the ratio between Connecticut and Rhode Island, instead of being sixty-four would be three hundred and ten. This is doubtless below what the actual number would be, for in Allegheny County alone, during the last seven years, of one hundred and twenty-one persons tried for murder but three were convicted in the first degree.

Experience speaks with no uncertain voice as to the advisability of abolishing the penalty of death. Reason adds her plea in demanding a more sensible and humane method of dealing with felons, and it seems to me there can be no good reason why every man should not oppose the cruel law and why every Legislature should not erase it from its statute-books.

Let all from whose eyes the scales have fallen urge the policy and humanity of abolishing the brutal law of life for life. It is a disgrace to our age, to our race, to our civilization. When society insists that it must still strangle some of its members in order to impress others with the value of life, that it must teach people the sacredness of life by maintaining a school of murder, it confesses itself a lamentable failure and a pretentious fraud.

CHAPTER XII.

OPINIONS OF SOME NOTED MEN.

In the multitude of counsellors there is safety.—*Proverbs.*

MEN of learning and ability are just as likely to differ in their opinions as ignorant people, but, nevertheless, their views are eagerly sought by those less intelligent and less able.

The value of a man's thoughts on any subject depends more on the opportunities he has had for forming an intelligent and unbiased opinion, than on his general intelligence and qualifications. The opinion of an ignorant sailor, regarding the indications of an approaching storm at sea, would be more trustworthy than that of the learned college professor making his first ocean voyage. When the cobbler criticised the shoe latchet in one of Apelles' figures, the celebrated painter at once recognized the justness of the criticism made by a practised eye, and amended the defect; but when the same critic ventured to point out some fault in one of the legs, Apelles rebuked him in the words that have come down to us in the proverb, "Cobbler, keep to your last."

In this chapter are given the views of a number of prominent men on the death penalty. Many whose opinions are given are men of eminent ability who have improved their advantages for observing the effect of capital punishment on society. Some of them are able men, but have not given the subject that consideration necessary to

entitle their opinions to much weight; while a few, perhaps, may not be recognized as men of great ability, nor are their opinions valuable on account of their having studied the subject. Their views were solicited owing to the public positions they occupy, and for what they might be expected to know, rather than for what they do know, concerning the subject under consideration.

A letter was written to the Governor of each State asking three or four questions. Among them was this: "In your opinion could life imprisonment be substituted for the gallows in your State without danger of an increase in the number of murders?"

Replies were received from nearly all the State Executives, although many of them did not answer this question. Many of those who did answer simply indicate their sentiments without offering any reasons on which they base their opinions. Of course it is interesting to know what public men think concerning public questions, but it is much more satisfactory to have a clear statement of the reasons that have led to their conclusions. However, as my question did not ask for this, unless by implication, I shall find no fault with the answers.

The following is what the Governors say:

David R. Francis, Missouri: "I believe in the efficacy of capital punishment."

Alvin P. Hovey, Indiana: "In some instances life imprisonment may safely be substituted for the crime of murder in the first degree."

A. B. Fleming, West Virginia: "I do not think it advisable to substitute life imprisonment for capital punishment."

R. L. Taylor, Tennessee: "I am of the opinion that the gallows cannot be dispensed with and should not be."

F. P. Fleming, Florida: "I cannot say that I have any

well-matured opinion as to the advisability of abolishing capital punishment. There is much to be said on both sides. We have Scripture authority for capital punishment. The question, in my opinion, should hinge on the inquiry as to which would tend to minimize crime. I am not posted as to the statistics in that regard."

W. P. Dillingham, Vermont: "In my opinion it is not advisable to substitute life imprisonment for the gallows."

John Miller, North Dakota: "As to the advisability of substituting life imprisonment for capital punishment, I am not prepared to say, as I have not given the subject sufficient study or consideration to justify a conclusion."

Lyman T. Humphrey, Kansas: "In Kansas we have practically substituted life imprisonment for the gallows, *i. e.*, a criminal sentenced to death is first imprisoned in the State penitentiary one year, at the expiration of which time the Governor *may* issue the necessary papers for the execution. The result of this is that no Governor has issued such papers since the enactment of this law."

Morgan G. Bulkeley, Connecticut: "I am convinced that if there was no reasonable expectation of possible pardon after conviction for a capital crime, the majority of our people would favor a change of penalty to life imprisonment."

Job A. Cooper, Colorado: "I am not in favor of the abolition of capital punishment."

Arthur C. Mellette, South Dakota: "I have long been of the opinion that capital punishment fosters crime and murder, and that imprisonment for life without power of pardon would better subserve the interests of society."

E. E. Jackson, Maryland: "I favor capital punishment."

John M. Thayer, Nebraska: "I am opposed to the abolition of capital punishment."

John P. Richardson, South Carolina: "I am decidedly opposed to the abolition of capital punishment in this State, being strongly of the conviction that its infliction is essential to the repression of certain heinous and outrageous offences."

James E. Campbell, Ohio: "I do not know that I am prepared to give an opinion as to the substitution of life imprisonment for the gallows. I am not sure but that a little judicious hanging occasionally is a good thing."

P. W. McKinney, Virginia: I am opposed to substituting imprisonment for life for capital punishment in a proper case."

The letter from Governor Luce, of Michigan, is the longest received from the Executives. I understand that he is a capital-punishment advocate, but his letter, as will be seen, is rather non-committal.

EXECUTIVE OFFICE, LANSING, MICHIGAN,
July 24, 1890.

A. J. PALM.

DEAR SIR:

I am in receipt of yours of the 22d inst.

I leave in an hour for the State Military Encampment, and this will not give me time to reply at length to your questions.

High treason is the only crime for which our statute provides the death penalty. Whether our present law, providing imprisonment instead of the gallows, for murder is a wise or an unwise one, is still an open question in the minds of our people. It has been discussed for more than forty years.

A law restoring the death penalty has passed the House of Representatives, at the last two sessions of our Legislature, and both times it has been defeated in the Senate. The discussion chiefly turns upon the result.

There are a few here, I presume, as elsewhere, who would not resort to the death penalty if it would prevent the murder of half of our citizens. They believe that taking life in the

name of law is no more nor less than murder, and hence this portion of our people are not watching the results, but defend their position on grounds of humanity, and deny the right to take human life under any circumstances. But the great mass of those who reflect on a subject are governed by different sentiments and ideas, and I cannot concede that the more enlightened portion of our people are on the one side or the other.

Many of our best men believe that the restoration of the death penalty would more surely protect the lives of our citizens, especially police officers. Men equally wise and good take the opposite ground and believe in the long run that imprisonment has or will more surely protect. Those who take either side of this question, believe that it is the duty of society to protect the lives, property, and liberty of its citizens. And if this class who oppose a resort to the death penalty can be convinced that it would spare the lives of innocent persons—men, women, and children,—they would yield all opposition and favor a restoration of the death penalty for deliberate murder.

We have tried to gather statistics from States populated by a people similar to our own, to ascertain whether the percentage of murders were larger in a State where murderers were executed, in proportion to the whole population. But this question has not been determined.

Those who advocate a return to the old way, furnish statistics from the States of Massachusetts, New York, and Illinois, and one or two other States to prove that our percentage of murders is in excess of that in the States named.

Those who do not believe in changing the law find statistics to enforce their convictions. I have given much thought and attention to this subject, and am forced to the conclusion that our police officers are more likely to be shot down in the discharge of their duty than they are in States where murderers are executed. But even this is not clearly established, because we can find no State situated exactly as our own is. Illinois

has a very much larger city than can be found in Michigan, and this may have its result. But the moment it can be determined that the imposition of the death penalty will save the lives of innocent men, women, and children that would not have been saved under our present law, then that moment it ought to be imposed. The life of an innocent person is worth more to society than that of half a dozen murderers, and the question still depends upon which system affords the surest and safest protection.

I am aware that this does not give you any especially new information, but I have no time to say more this morning.

Respectfully yours,

CYRUS G. LUCE.

The other Governors who answered my letter either said that they did not wish to express any opinion on the punishment of death or made no reference to it.

Letters were addressed to the members of the United States Supreme Court asking their views. Justices Field and Lamar made no reply; Fuller and Brewer asked to be excused from giving their opinions; and Gray found it inconvenient to express his convictions.

Justice Blatchford says: "I have not considered the subject sufficiently to be able to give an opinion."

Justice Bradley: "As a deterrent of crime I think the apprehension of the penalty of death is much more effective than that of imprisonment; and the punishment of death for murder is a righteous vindication of justice, sanctioned by the venerable law given to the father of the human race: 'Whoso sheddeth man's blood by man shall his blood be shed.' Gen. ix., 6."

Justice Harlan: "You ask my opinion as to the advisability of substituting life imprisonment for the gallows. I am of the opinion that capital punishment is proper in aggravated cases of murder. If the fear of punishment in

that mode is removed, the number of murders will largely increase. The hand of the murderer is often stayed by the conviction that he may be hung if he take the life of another without legal justification."

I think a great deal of the next letter, not only because I like the views expressed, but because it was among the very last letters, if not the last one, dictated by the lamented Justice Miller. It was written just the day before he was stricken with the hand of death.

SUPREME COURT OF THE UNITED STATES,
WASHINGTON, Oct. 9, 1890.

DEAR SIR:

Yours of the 7th was received yesterday. I have an impression that I answered a similar letter from you or some one else just before I left home at the close of the term.

I have only to say that I am now and have been for a great many years a disbeliever in the merits of capital punishment as a means of preventing crime. Of course, you will not expect from me any argument upon this subject. A long judicial experience, however, has impressed me more and more with the force of the argument against the *policy* of such punishment, while I have not abandoned my original belief against the moral right of taking life as a judicial proceeding.

You would, perhaps, be interested to know that the following sentence is a part of a judgment delivered by me in the Circuit Court of the United States for the District of Iowa, 1867, and is to be found in the case of U. S. *vs.* Gleason, Woolworth's Reports, 140:

"The penalty which the law attaches to your offence is one which my private judgment does not approve; for I do not believe that capital punishment is the best means to enforce the observance of the laws, or that, in the present state of society, it is necessary for its protection. But I have no more right, for that reason, to refuse to obey the law, than you had to resist it."

Very truly yours,

SAMUEL F. MILLER.

Here is a letter from the Hon. Richard Vaux, who for nearly half a century has been one of the Inspectors of the Eastern Penitentiary at Philadelphia—the greater part of the time acting as Chairman of the Board. If Mr. Vaux were a young man there is but little doubt that he would be opposed to the death penalty.

HOUSE OF REPRESENTATIVES, U. S.,
WASHINGTON, D. C., July 14, 1890.

MY DEAR MR. PALM:

I read your letter with great interest. The subject of the death penalty for crime has never received the careful consideration it merits. The emotionists and the philanthropists, and the men who neither reason nor think, have given coloring to this subject which is wholly unjustifiable. The objection to the death penalty by them arises from a morbid sympathy for the criminal. The imperious dictates of justice demand that the safety of society should be secured by whatever means the state has the power to impose. The state is the sovereign, and its power to govern the citizen is too well settled to require an argument in its support. If the safety of society demands the penalty of death, then the penalty of death should be inflicted; and for one, I heartily agree that it is not only justifiable, but necessary. This new-fashioned doctrine of insanity which is invoked to save the life of a murderer, when his crime is proved beyond dispute, weakens the safeguards of human life, and puts in peril the security of the citizen. But this subject of crime punishment cannot be discussed in a note which the pressure upon my time just now demands should be short. I hope in a few days to be able to send you a book which may lead you in a line of reflection on this subject. I wrote it some years ago. It is called "Crime Cause." As soon as I return to Philadelphia I will take great pleasure in forwarding you a copy. You must excuse this very brief reply to your note, but really the engagements that press upon me preclude my giving you a more full reply. Yours respectfully,

RICHARD VAUX.

SPEAKER'S ROOM, HOUSE OF REPRESENTATIVES,
WASHINGTON, D. C., July 14, 1890.

MR. A. J. PALM:

Speaker Reed received your letter and says that he made a speech on capital punishment in the Maine Legislature when a Representative there, and against the death penalty, in 1868–9, and has never changed his mind. I do not know as that speech can be found, as he has not a copy, but it was printed in some newspaper at the time. Mr. Reed does not express any opinion on the question you ask, but you are safe in quoting him as opposed to the death penalty. He is so busy that I have to write for him.

Yours truly,
AMOS L. ALLEN,
Private Secretary.

The next letter is from A. B. Richmond, Esq., a well-known writer and criminal lawyer of Meadville, Pa., who has taken part as counsel in nearly one hundred murder trials.

LILY DALE, N. Y., Aug. 8, 1890.

A. J. PALM.

DEAR SIR:

Your esteemed favor was forwarded me here. I have only to say that I am most decidedly opposed to the death penalty. It is the certainty of punishment, not its severity, that prevents the commission of crime.

When we consider the fallibility of human judgment, and the liability to err in human testimony, it is no wonder the educated jurors of to-day hesitate to find a verdict of guilty when the penalty is death.

The errors of the law and human judgment cannot be corrected when the grave closes over the victim of fraud, perjury, malice, or mistake, and it is a consciousness of this fact that makes jurors refuse to render a verdict of guilty even when the evidence would justify it, and for this reason criminals often

escape, when if the punishment was imprisonment they would be convicted.

The death penalty is a relic of the barbarism of the past and a disgrace to the civilization of the present.

I regret that I have not time to write more fully.

Yours,

A. B. RICHMOND.

The following letter from Hon. T. M. Cooley will be read with interest. He was for many years at the head of the Law Department of the University of Michigan and served thirteen years on the Supreme Bench of that State. He is the author of several standard legal works that have given him a national reputation, and is at present a member of the U. S. Railway Commission.

UNIVERSITY OF MICHIGAN, ANN ARBOR,
March 22, 1880.

A. J. PALM, Esq.

DEAR SIR :

Your letter of the 5th inst. requesting my views on the subject of capital punishment is before me, but it is quite out of my power to reply at length on the respective advantages and evils of that method of punishment. This State has dispensed with it for a third of a century, and I can only say of the result that, in my opinion, human life within its jurisdiction has been at least as secure against criminal assaults as in any of the adjacent States where the death penalty has been retained. The fear of the penalty, in my opinion, deters persons from taking life in very rare and peculiar cases only, if in any, and the greater certainty of conviction and punishment when imprisonment is substituted fully counterbalances any benefit that can come from fear.

The fundamental objection to the taking of human life by law is found in the tendency to destroy in men's minds the sense of the sacredness of life and to accustom them to regard

without fear or horror its destruction. We have witnessed this effect in the frightful increase of crimes of violence since the great and destructive Civil War, and the evil consequence is none the less because of the destruction being thought just and necessary. Mankind are not to be impressed with the priceless value of existence by spectacles of deliberate executions, and so long as the state justifies the taking of life for crime against society, individuals will frame in their own minds excuses for taking it for offences real or imaginary against themselves, or will take it without excuse when it stands in the way of their desires.

With every public execution life is regarded more lightly, and indeed all executions are now made through the press as public as possible, so that each in its effect upon society is almost as pernicious as the crime it assumes to punish.

Very respectfully yours,

T. M. COOLEY.

SENATE CHAMBER, WASHINGTON,
July 18, 1890.

Mr. A. J. PALM.

DEAR SIR :

In response to your note of the 17th I have to say that I have not given the subject of the death penalty the reflection that would entitle my opinion to any weight. It certainly ought not to be inflicted except in the extreme cases of wilful and deliberate murder of a human being with malice aforethought without excuse or palliation.

Very truly yours,

JOHN SHERMAN.

The views of Senator Ingalls are characteristic.

UNITED STATES SENATE, WASHINGTON, D. C.,
July 28, 1890.

Mr. A. J. PALM.

DEAR SIR :

In reply to yours of the 22d inst., I would say that I contributed a brief paper to McClure's newspaper syndicate a few

weeks ago. Perhaps you could get a copy by applying to him. His office is in the *Tribune* building, New York.

Very truly yours,
JOHN J. INGALLS.

Senator Ingalls afterward sent the paper referred to, which is as follows:

"We are all under sentence of death. By some mysterious and inexorable law it is appointed for all men to die. Other incidents may or may not occur, but death is inevitable. There is no reprieve, no new trial, no pardon, no executive clemency. Life, the most sacred of all natural rights, is the one of which all are deprived by an arbitrary decree of nature. The verdict is pronounced and judgment rendered before we are born.

"The right of man to live is sacred and incontestable, and yet it may be renounced. If I am attacked I have the right to kill my assailant, if his death is necessary for the preservation of my own life.

"This is not denied by any code of morals or of law. Life may be legally taken not only in self-defence, but in the protection of property, of honor, and of state. If the right to slay exists, then the right to live is forfeited, because two contradictory rights affecting the same individual cannot co-exist.

"Civil governments are established, among other objects, to dispense with private vengeance, and to punish crimes against individuals as offences against the social compact. The citizen relinquishes his right to kill the man who has slain his father, his brother, his wife, or his friend, upon the agreement that society shall avenge the wrong, and punish the offender.

"This seems to be the rational justification of the death penalty, which has been universally recognized from the beginning of history.

"And yet it cannot be denied that as the conscience of nations becomes more sensitive, and the sacredness of life more apparent, its infliction becomes more repulsive. Tribunals, juries, and legislatures are perceptibly reluctant to enforce the fatal right of retaliation.

"Limitations are imposed. The condemned criminal becomes the object of excessive and inexplicable sympathy. Philanthropy strives to devise less terrible methods of execution. The barbarous torture of the stake, the gibbet, the wheel, of beheading and mutilation, once deemed essential to the safety of society, are regarded with horror, and have been definitely abandoned. Humanity shudders at the contemplation, and inquires whether the sacrifice of life is not indefensible, if the isolation of the felon is sufficient for the protection of the state from a repetition of the crime.

"The public sentiment for the abolition of capital punishment is evidently growing stronger in all parts of the civilized world. For political offences, except in actual war, it has been finally suppressed.

"Had Waterloo occurred two centuries earlier Napoleon would have been sent to the block instead of to St. Helena.

"The right of government to inflict the death penalty must be conceded. The objects of punishment are to reform the offender, and to protect society. The idea of vengeance has been eliminated. No gentleman can be considered as being reformed by being hanged, and the only remaining consideration, therefore, is that of social utility. This is debatable ground, and is not susceptible of demonstration. There are some incorrigible and predestined criminals, the wolves, tigers, and cobras of the human race, whose execution gives general satisfaction, but the victims of heredity, of want, of sudden rage, of

ungovernable impulse, are regarded with compassion. The indications are strong that society ultimately will be reinforced with sufficient intellectual and moral guarantees to enable it to dispense with this supreme penalty.

"At present the general conscience would probably reflect the sentiment of a challenged juryman in Montana, who declared that he was opposed to capital punishment, except when inflicted by a vigilance committee.

"The Legislature of Kansas has adopted the ingenious device of ordering criminals condemned to death to be confined for one year after sentence to the penitentiary, and then executed at the pleasure of the Governor. The result is an accumulation of a job lot of convicted felons, whose lives having been judicially forfeited, instead of being abbreviated, are indefinitely prolonged by improved diet, scientific sanitary regulations, and enforced good habits, at the expense of the State."

Roscoe Conkling said to a New York *Sun* reporter in speaking of Chiara Cignarale's case: "At no time should a woman's life be put in danger. Our civilization surely is too far advanced to permit the killing of a woman by process of law. It is bad enough, God knows, to hang a man. A woman's life should never be taken, even though she has been found guilty of the awful crime of murder. The hastening to eternal judgment of a woman's soul, by order of a civilized judge, in a civilized court, of a civilized country, is a blot upon the manhood of this nation."

Col. R. G. Ingersoll, in his lecture on "Crime against Criminals," uses the following language:

"The death penalty inflicted by government is a perpetual excuse for mobs. The greatest danger in a republic is a mob, and as long as states inflict the penalty of death, mobs will follow the example. If the state does not consider life sacred, the mob with ready rope will

strangle the suspected. The mob will say: 'The only difference is in the trial; the state does the same—we know the man is guilty. Why should time be wasted in technicalities?'

"In other words, why may not the mob do quickly what the state does slowly?"

W. D. Howells, in a letter to *Harper's Weekly* in 1887, in speaking of the proposed substitution of electricity for the gallows, says:

"In the event, however, that the Legislature should refuse to touch a single bough of the honored tree which has so long sheltered Anglo-Saxon society, I have a suggestion to make in this matter of executions.

"I have long thought it cruel to the sheriff and his deputies to force them to this hangman's work, and monstrous to let some imbruted wretch make legal killing his trade; and I have proposed that the executioner should be drawn from society at large, as jurors are, and no excuse should avail except the oath of the person drawn that he is conscientiously opposed to capital punishment. This system, which is perfectly practicable, would give, from time to time, men of every profession and station the opportunity to attest their devotion to the great principle that if it is wrong to take life, a second wrong of the kind dresses the balance and makes it right."

Dr. Benjamin Rush: "The power over human life is the sole prerogative of Him who gave it. Human laws, therefore, are in rebellion against this prerogative, when they transmit it to human hands. I have said nothing of the punishment of death for murder, because I consider it an improper punishment for any offence."

Father Mathew: "I have been about thirty years in the ministry, and I have never yet discovered that the

founder of Christianity has delegated to man any right to take away the life of his fellow-man."

Benjamin Franklin: "Laws which inflict death for murder are, in my opinion, as unchristian as those which justify or tolerate revenge."

The following opinions are taken from an able work on capital punishment, published in 1876, by the late Hon. M. H. Bovee, who died at his home in Whitewater, Wis., about three years ago. Through the kindness of Mrs. Bovee I am permitted to make use of the book:

Elizabeth Cady Stanton: "You ask me if I believe in capital punishment. Indeed I do not. When men are dangerous to the public they should be imprisoned; that done, the remaining consideration is the highest good of the prisoner. Crime is a disease; hence our prisons should be moral seminaries where all that is true and noble in man should be nurtured into life. Our jails, our prisons, our whole idea of punishment is wrong, and will be until the mother soul is represented in our criminal legislation. It makes me shudder to think of the cruelties that are inflicted on criminals in the name of justice, and of the awful waste of life and force—of the crushing out of hundreds and thousands of noble men and promising boys in these abominable bastiles of the nineteenth century.

"As to the gallows, it is the torture of my life. Every sentence and every execution I hear of is a break in the current of my life and thought for days. I make my son the victim. I am with him in the solitude of that last awful night, broken only by the sound of the hammer and the coarse jeers of men, in preparation for the dismal pageant of the coming day. I see the cold sweat of death upon his brow, and weigh the mountain of sorrow that rests upon his soul, with its sad memories of the past and fearful forebodings of the world to come. I imagine the

mortal agony, the death-struggle, and I know ten thousand mothers all over the land weep, and pray, and groan with me over every soul that is lost. Woman knows the cost of life better than man does.

"There will be no gallows, no dungeons, no needless cruelty in solitude when mothers make the laws."

William Cullen Bryant: "I am heartily with you, as you know, in your warfare against the barbarous practice of punishment by death; and my prayer is that your labors may be crowned with perfect success. Sooner or later I am confident that the infliction of the penalty of death by the law will become as obsolete through the civilized world as torture by the rack."

John G. Whittier: "I have given the subject of capital punishment much consideration, and have no hesitation in saying that I do not regard the death penalty essential to the security and well-being of society; on the contrary, I believe that its total abolition, and the greater certainty of conviction which would follow, would tend to diminish rather than increase the crimes it is intended to prevent."

Alice Cary: "I cannot, probably, add any thing to the force of what must have been already said by your contributors against that crime of crimes—capital punishment. As I regard it, the *second* murder is worse than the *first*; for the *first* may have been attended with extenuating circumstances,—not so the *second*.

"I believe all crime to be insanity, and that until it shall be treated as such, we shall find no betterment in governmental affairs."

Henry W. Longfellow: "I am, and have been for many years, an opponent of capital punishment. It would be useless to state my reasons. They are, in the main, the same, doubtless, as those which influence your own action in the matter."

Horatio Seymour: "I do not know exactly how far we shall agree with regard to capital punishment. I am decidedly in favor of softening our criminal code for many reasons. By so doing we shall secure greater certainty of conviction in cases of guilt. I am a strong believer in the influence of hope rather than that of fear. The longer I live and the more I see and learn of men the more I am disposed to think well of their hearts and poorly of their heads."

Horace Greeley: "My objections to capital punishment may be summed up in a few words. They are:

"1. *I hate vengeance.* If I am ever revengeful, I hate myself for being so. Vengeance is a barbarous, cruel, malignant passion, which I would not teach my children, nor *any* children. The gallows *does* teach it—always *did* teach it—always *will* teach it. The boy who runs to see a man hung will be taught thereby to seek to injure every one he deems his enemy, or who he supposes has injured or wronged him. This is paganism—possibly Judaism;—it is *not* Christianity, as I have learned that religion. I revere the cross, and detest the gallows.

"2. *I dread human fallibility.* Men are prejudiced, passionate, and too often irrational. To-day they shout 'Hosanna' and to-morrow howl 'Crucify him.' I would save them from the harsher consequences of their own frenzy. Our Saviour is by no means a solitary example of the unjust execution of the innocent and just. Socrates, Cicero, Sir Walter Raleigh, Algernon Sidney, John Huss, Michael Servetus, Louis XVI., the Duc d'Enghien, Marshal Ney, Riego, Nagy Sandor, Maximilian, are among the conspicuous instances of victims of the law of blood. We have recorded instances of innocent men convicted of murder on their own confession—of men convicted, sentenced, and hung for offences whereof

they were in nowise guilty. Men may suffer unjustly, even though death be stricken from the list of our legal penalties; but to be imprisoned and stripped of property is quite endurable, compared with the infliction of an ignominous death, in the presence and for the delectation of a howling mob of exulting human brutes. So long as man is liable to error, I would have him reserve the possibility of correcting his mistake and redressing the wrong he is misled into perpetrating.

"3. I would affirm and inculcate as widely and impressively as possible the *sanctity of human life*. Unlike the French wit, I would have society set its enemies a salutary example. I believe that legal executions incite to, rather than diminish, murders."

John Bright: "I do not think the punishment of death is necessary to the security and well-being of society, and I believe its total abolition would not tend to increase crimes, which it is now supposed by many persons to prevent. The security and well-being of society do not depend on the severity of punishments. Barbarism in the law promotes barbarism among those subject to the law; and acts of cruelty under the law become examples of similar acts done contrary to the law.

"The real security for human life is to be found in a reverence for it. If the law regarded it as inviolable, then the people would begin also so to regard it. A deep reverence for human life is worth more than a thousand executions in the prevention of murder; and is, in fact, the great security for human life. The law of capital punishment, whilst pretending to support this reverence, does in fact tend to destroy it.

"If the death penalty is of any force, in any case, to deter from crime, it is of much more force in lessening our chief security against it; for it proclaims the fact

that kings, parliament, judges, and juries may determine when and how men may be put to death by violence; and familiarity with this idea cannot strengthen the reverence for human life.

"To put men to death for crimes, civil or political, is to give proof of weakness rather than strength, and of barbarism rather than Christian civilization.

"If the United States could get rid of the gallows it would not stand long here. One by one we Americanize our institutions; and I hope, in all that is good, we may not be unwilling to follow you."

Charles Sumner: "My opinions on the subject of capital punishment have been often declared, and are in print. The right to take life stands simply on the overruling necessity of self-defence, in the state as in the individual man; for no combination of men can have higher rights in this respect than the individual. If the individual man can defend himself without taking life, he is bound to do so; and this is the limitation imposed by natural law and reason upon the state. Now, nothing is clearer than that, whatever may have been the exigencies of other days, the time has gone by when the life of a state can be saved only by taking life. Every execution now seems like a confession of weakness if not of cowardice."

Henry Ward Beecher: "In our age, and with the resources which Christian civilization has placed within reach of civil governments, there is no need of the death penalty; and that every consideration of reason and humanity pleads for its abolition. It does not answer well the ends of justice, and often defeats them. As an example, it tends rather to brutify than to quicken the moral sense of spectators. And yet, while the fear of hanging does not deter men from crime, the fear of in-

flicting death deters many a jury from finding a just verdict, and favors the escape of criminals. It is the rude justice of a barbarous age. We ought, long ago, to have done with it."

Wendell Phillips: "Time sentences should be abolished. A man should be restrained until he is fit again to mingle in society; no matter how long an imprisonment that may require, or how trivial the offence.

"The gallows, therefore, I abolish altogether. It never could have been defended except on the ground of absolute necessity, in order to protect society. It would be absurd to make any such plea for it now, since we all know that, with the resources of modern times, we can keep a man within four walls as long as we see fit. *That* guards the community; *and we have no right to punish him in order to deter others from following in his footsteps.* The moment a man violates law, he forfeits his civil rights; this gives society the right, and imposes on it the duty, of subjecting him to the best moral influences it can command, as long as is needed to make him a good citizen; this is all the right society acquires over him, and this does not justify the gallows."

CHAPTER XIII.

REFORMATION OF THE CRIMINAL.

> Long is the way and hard
> That leads out of hell up to light.
>
> MILTON.

NOWHERE do we find stronger evidence that humanity is growing more sensible and more charitable than we see in the treatment of those who offend its laws. With the exception of still punishing murder by imitating it, the treatment of the criminal class is infinitely more humane and Christian-like than it was even a few years ago. A hundred years ago prisons in Europe were horrible torture chambers, and they were but little better in America.

The criminal was looked upon as a social leper who had forfeited all claims to be treated otherwise than as a dangerous beast. He was thrown into a damp, cold, stinking dungeon, there to serve his term, under the idea that he should suffer punishment both as his own just deserts and as a warning to others.

Through the labor of love that has made John Howard's name revered wherever civilization has reared her temples, the physical treatment of the criminal has been constantly growing more humane. He is now generally recognized as a human being, and though the old idea that he is possessed with a devil still seems to have a vague hold on the public mind, it is now pretty generally conceded that the evil spirit cannot be driven out by starvation and blows.

Unfortunately, while the physical condition of the criminal is infinitely better to-day than it was in Howard's time, yet what should be the real object of taking a man from among his fellows and keeping him in confinement is not much better, practically, than it was a hundred years ago. Perhaps, with the exception of less than half a dozen prisons for adults in the United States, they are about as poorly adapted to the true purpose of imprisonment as were those pens visited by Howard in France, Germany, Holland, Russia, and other countries a hundred years ago.

We have more Howards to-day than the world has ever seen before. They are found in every State of the Union, but while they understand and urge the true and effective methods of dealing with crime, they can make but little headway, owing to the lack of legislative assistance.

They are educating public sentiment, however, and occasionally a monument such as that at Huntington, Pa., and Elmira, N. Y., is erected to their honor and to the public benefit and credit.

Those who have the management of criminals realize that there is not between these unfortunates and the rest of mankind a great gulf fixed, like that between Lazarus and Dives, so that those on one side may not pass to the other. The convict is still a man, governed by motives and will, influenced by causes, and is an integral part of society.

The true object of imprisonment, as usually defined now, is twofold: to deter and to reform. To set an example that may warn others against committing offences and to reform the one who has already violated the law that he may not repeat the transgression. The only real object that the State has in dealing with the criminal is to protect society. It is not a matter of love or philan-

thropy that leads it to teach the convict and try to convert him. Its object is purely selfish, and it tries to reform a prisoner to protect itself from a man who is likely to be dangerous when released, if not reformed. It has begun to recognize feebly the fact that it is cheaper, easier, and better to fortify itself against crime by teaching the wrong-doer than in any other way, or it would adopt some other plan.

The idea of inflicting pain or punishment of any kind on the criminal, simply as a sort of revenge for the injury he has done, is unworthy of the age, and no man who values his reputation as a penologist will claim that this is any part of the object of penal jurisprudence. To restrain others by depriving the offender of his liberty, and to try to so instruct him that he will not offend again, is the sum total of the right or duty of the state in imprisonment.

With punishment purely as such, it has nothing to do. As Wendell Phillips puts it, "Punishment has relation to guilt, and only that power which can measure guilt is competent to fix a penalty and to punish. One may commit murder with less moral guilt in the eye of God than another steals or lies about his neighbor."

While a genuine reformation of the criminal is society's surest, and in fact its only certain, protection against him, yet this is not made the first consideration in the prisons of the United States, with a few honorable exceptions. The managers of too many of our penitentiaries, in order to avoid removal, are obliged to give their attention chiefly to making money, and the work of teaching comes in as best it may, and, whether much, little, or any, depends on the goodness and wisdom of those in charge, rather than on its being a part of the prison policy of the State. There are many noble men of ability engaged in prison work, men whose ability entitles them to a hearing

before any law-making body, but in most States they have labored so long in vain for proper legislative recognition in penal affairs that they are well-nigh discouraged.

Warden H. F. Hatch, of the Jackson, Michigan, Penitentiary, one of the ablest prison managers in the country, makes this sensible observation in reference to the hindrances in their work:

"In a modified form we are generally conducting our penal institutions on the same principles which governed many centuries ago. Our punishments are less brutal, and there is more of order and cleanliness; but it is still a government of force, and not of education and persuasion. The wardens and superintendents of these institutions know this, and wish to remedy it. As a rule, they have the ability and force necessary to the work, but they are opposed at every step, not only by the opposite party but by their own party. By their own party, because the new requirements would make it impossible to furnish places to broken-down political workers, who are incapable of further service, and who, because of their incapacity, demand place on the prison force, and urge as a reason why it should be granted the very condition which utterly disqualifies them to hold a place among a body of men engaged in duties requiring great physical and mental energy. From the opposite party, because right or wrong they regard it as a solemn duty to hit every head in sight."

Over the door of the new prison in Rome, the Pope caused to be inscribed the words: "It is idle to coerce the bad by punishment, without making them better by instruction." The sentiment is well worthy of a pope, and is strictly true. The world has demonstrated over and over again, in every country and in many ways, that force and pain and degradation never reform, but always debase and harden.

That a large portion of the criminal class could be thoroughly reformed by proper treatment is beyond doubt. Many are reformed, even under the disadvantages of prisons as they exist. The chaplain of a large prison says: "The idea so prevalent that those convicted of crimes against the law are more difficult to reach by moral influences, is erroneous and misleading. They are a part of the body politic, and have the same moral nature, and are as susceptible to gracious hints and divine suggestions as are other men. Bring the proper moral means to bear upon the moral nature of the prisoner while he is alone in his cell, and while the counteracting influences of those who would strengthen his hands in crime are excluded, and the better feelings of his nature will warm into new life."

John Ruth, for many years moral instructor in the Eastern Penitentiary of Pennsylvania, has this to say on the subject: "In the criminal's deepest degradation there remains something sacred, the germ of his better nature, the pledge of a purer life. Find some means to rekindle this latent life. Only make the criminal feel that there is a link that binds him to the virtuous and the good, and you place beneath him a buoy that lifts him up, and before him an incentive which propels him onward in a life of reformation and rectitude."

The chaplain of San Quentin, California, State prison, makes the following statement in his report for 1889: "Before my connection with the prison I had very different ideas of the unfortunates branded with the stigma of social ostracism, made to wear a garb of shame, and condemned to dwell in living tombs. To my eye every convict was a criminal to be shunned or watched. I am now satisfied as I am of my own existence that there are innocent, yes, saintly, men in San Quentin. I believe

that hearts as good, as loyal, and as true, beat under coarse striped flannel, as under the broadcloth, the velvet, and purple of the glittering world; hearts that, in the wild moment of passion or in the evil hour of insane drunkenness, have yielded to excesses and stooped to crimes which they would give a thousand lives to blot away."

It is estimated by those in charge of our best State prisons that from fifty to seventy per cent. go out from them to engage in some honest business, from nine to twelve per cent. are returned to prison, and a large number lead dissolute lives, but escape punishment.

The wiser plan, of course, would be for society to turn its engines of destruction on the causes that lead to crime. It would seem a hopeless task to try to clear the water from the hold of a vessel with a pump of one hundred barrels' capacity per hour, while one hundred and ten barrels per hour poured in at a hole in the bottom. Ordinary sense would suggest shutting off the supply as the first step. Society, however, does not do this, and prison officers, reform-school managers, and directors of charitable institutions must do the best they can with the flood constantly pouring upon them.

The great majority are too busy with their own affairs to give the subject any serious attention. When an atrocious crime is committed, or an unusually interesting criminal trial is in progress, the average man takes time to read of it and give his views as to what should be done with "such cattle," and there his interest in this direction ends. When a man is sent to prison for a term of years, not one in ten who thinks of it at all has any idea in connection with it, except that the man is to be punished for his crime. The thought of reforming him, of having him come out of prison better than when he

entered, never occurs to the average mind. In fact, the natural impression seems to be in the opposite direction; that the man will be more dangerous when he returns than when he was convicted. This opinion, no doubt, grew naturally and correctly, too, from early experience in the effects of prison treatment, and unfortunately the impression is yet justified too often to have it speedily removed.

Law-makers are more interested in studying how they can work the "granger" vote than they are in any subject of vital social interest.

Lawyers and judges live on the ignorance, mistakes, and misfortunes of others, and are indifferent—many of them wofully ignorant—on subjects of penal jurisprudence. Even ministers are far-sighted, and their vision does not rest until it strikes "India's coral strand," though in every city in the nation there are scores of dirty, ignorant, homeless little waifs and forsaken, wretched men and women going direct to that hell pictured from the pulpit in all its terrible aspects.

Every year from six to eight million dollars are spent on foreign missions, while beneath the very shadows of the churches that furnish the money are men, women, and children suffering from destitution, physical, mental, and moral. Should a heathen on the banks of the Ganges be considered of more spiritual value than a needy sinner in our own neighborhood is a question that may admit of a reasonable answer in the affirmative; but the number of doubters is large and constantly growing larger.

A few years ago, Dr. A. J. Dodds and Miss Abbie Sterrett, of Pittsburgh, left their homes for Syria to enlighten the benighted heathen of that region. On the evening before they started on their journey of seven thousand miles, their friends met to bid them God-speed

in their noble work. At the same time, a party of Polish emigrants were packed in a basement on Penn Street. Disease had broken out among them, and they were suffering for want of food. Attention was called to the case by the newspapers, and, though they remained in that damp, badly ventilated basement for two weeks, not a church-member sent a dollar for relief, or even expressed a word of sympathy.

From the accounts in the papers, as I write, it should seem that a few thousand missionaries with several thousand dollars should be sent at once to Perry County, Kentucky. According to the despatches, Judge Lilly is attempting to hold court in a tent, guarded by three companies of the State militia, while four hundred outlaws are camped near, determined to take his life. No court had been held before for two years, and officers of the law have been driven away. Judge Lilly has made his will, and sleeps with armed soldiers on guard in his room. All food is tested before being eaten, and no man is allowed to enter the town until he is searched. There is not a school or church in the county, and not a religious service has been held for two years.

Here is a first-class opportunity for zealous missionaries, yearning to distinguish themselves in the vineyard of the Lord. There should be a rivalry among the different societies to see whether Methodist, Baptist, Presbyterian, or Catholic shall have the honor and glory of converting the heathen of Perry County, Kentucky.

It may be considered bad taste and worse morals to refer to such cases, but feeling sometimes runs away with discretion. It is said that true charity begins at home, and though it should not always stick to its place of beginning, there is a good opportunity to dispense a great deal of the genuine article in our own country.

It is a question whether we are not worse off in many respects than the heathen. It might be a good thing to have Congress make an appropriation for the purpose of bringing over a few thoroughbred Asiatics to teach us temperance. The grog-shop is said to be unknown among Mohammedans, Buddhists, or any of the half-civilized nations.

It is related, too, that a mariner who was shipwrecked on what he feared was a savage coast, was much relieved when he saw a gallows in the distance. "Ah," he remarked, "now I believe I am in a Christian country."

Reformation should be the principal object of the state in apprehending a law breaker. If the state picks up an offender for the purpose of benefiting society, is it not in duty bound to place him under more favorable circumstances for improvement than those in which it found him? If it is proposed to put him where he will grow worse, and return to society a more dangerous man than when he was removed, reason dictates that he should not be taken, or, if taken, never be permitted to return.

On general principles, what kind of treatment should he receive?

If it is desired to make a good boy of a bad one, or a good man of a bad man, would any one's judgment ever suggest placing him among other men or other boys as bad or worse than himself? Would not that be the last plan any sensible person would suggest, and yet is that not exactly what we do?

We arrest a boy for stealing a pair of skates. The fact that he was suspected of stealing is an indication that the boy most likely needs reforming, and he is put into the county or city jail. Are the associates he is likely to find there good men and good boys, chosen especially to have a good influence over this boy of twelve, who may or may

not be guilty? Even if guilty of the offence charged, he may not be at heart a bad boy; but he was poor and wanted a pair of skates so much that his longing for them overcame his sense of right. Are these associates he finds in the jail proper persons to strengthen his perceptions of right and wrong?

There is a libertine, awaiting trial on the charge of rape; a burglar, for robbing a bank; a drunkard, for maiming his child; a murderer, for killing his brother; and the boy of twelve, for stealing a pair of skates. In the jail is a common room with a table, around which all sit and tell filthy, disgusting stories, and relate the shameful deeds of their own experience. Is this not a kind of reform of which we should feel ashamed? Lacenaire, himself a most celebrated criminal, says that when a young man enters prison and hears of the grand exploits of the others, he regrets that he had not been a greater criminal himself.

Sometimes innocent persons are put into jail among the guilty, to be kept until the day of trial as witnesses. What is the influence of their associates likely to be on them?

When the cases are tried, and the jail-birds, as they are called, convicted, they are sentenced to one, two, three, or more years to the State prison for reformation. We ought to expect that they would be placed under men who are intelligent, sympathetic, moral, courageous, and able in every respect. Men who can give the convict new ideas of life, teach him self-respect, prepare him to earn a livelihood, and send him home a better man who has the courage to say, "I have been in the penitentiary, and I am not sorry that I was sent there. It has done for me what society has failed to do. It taught me to read and how to earn honest bread, and I shall now lead an upright life."

How is this good work usually begun? The convict, who

has lived all his life in the neighborhood in which he was arrested, and who was never regarded as a dangerous man, suddenly seems to have become a dangerous character. When the sheriff is about to take him from the jail to the penitentiary, he handcuffs him, and takes from one to three armed men with him to see that the convict is safely landed.

When he is taken into the prison he is weighed, measured, and described very accurately, so he can be captured the more easily if he runs away. Next, in order to show him that his manhood is to be respected, his head is shaved, and he is dressed in the elevating, soul-inspiring suit of striped clothing, on which the devil holds a patent and from which he derives a large royalty. As properly might a skull and cross-bones be placed on the dome of a church to indicate that it is devoted to the worship of the lowly Nazarene as to deck a man in convict's garb, with the idea of teaching him self-respect and respect for others.

Is it necessary to degrade a man in order to elevate him? Are not those who find their way to prison cells sufficiently depraved, sufficiently lost to the voice of shame, without further adding to their degradation?

This method of treating moral disease is at par with the old plan of dealing with physical afflictions. When a man was smitten with fever the physician seemed to be in full sympathy with the disease, and acting on the principle that his patient might be too strong to cope with the malady, he proceeded at once, in a scientific way, to weaken him. He bled him, puked him, purged him, salivated him, and blistered him, and when this was thoroughly and professionally done, if his patient was still alive, the medical man was ready to begin the work proper of building him up. I presume the theory was that the disease would

become so thoroughly disgusted with the physician as to vacate the premises of its own free will.

Medical men have now abandoned this criminal fallacy, even if they do still cling to others equally absurd. Instead of reducing a patient's strength, they endeavor to increase, or at least maintain, it as far as possible; for the skilful physician well knows that upon the patient's strength depends his recovery a hundred times more than upon the action of any drugs known to science. Moral physicians, however, with few exceptions, are still practising on the old plan. To improve and strengthen a patient's manhood they degrade him. To strengthen his honesty they suspect his every action, and never let him lose sight of the fact that he is a villain, and they are "onto" him.

Why should there be a dress known as the "stripes" or convict's garb, to be a constant reminder to the wearer of his degradation, and render him insensible to the voice of shame? It is a bad step in any man's career when he loses the respect of his friends, and a worse one when he loses respect for himself. Every man, saint or sinner, should have a proper regard for his personal appearance, which depends more or less on his dress. A clean, well-dressed boy is far less likely to do a mean thing than the same boy in filth and rags. An honest man, togged out in a convict's dress, with his head shaved, is more than half prepared for "treasons, stratagems, and spoils," while the convict in a gentleman's dress must feel sorry that he is not a gentleman.

Why force criminals to march lock-step into the very sanctuary on the Sabbath day? Why not let each one select the color of his coat and the style in which it is to be made? If he thinks he looks more like an honest man with his hair long, why not gratify him? The plan of

shaving the head may have had its origin in righteousness,—to render it easier to keep the vermin in subjection,—but let us hope that no prison in this country, at least, will now uphold the custom for this reason. There is no danger of showing prisoners too many harmless favors, if the object is to reform them. Stone walls, iron doors, grated windows, and coarse treatment have never reformed a convict since the world began.

A good man, engaged for many years in one of our largest prisons, remarks: "I wish society might be so permeated with the spirit of Him who would have mercy and not sacrifice, as not to place those who are disciplined for crime so low that they cannot fall lower, and then chain them there so they cannot rise from their degradation."

A prison warden, one who understands his business, has this to say in reference to the treatment of convicts: "Cleanliness and tidiness are so feasible and so telling in their effects that no prison should have any excuse for neglecting them. There is but little use of talking to men of better things, of singing to them, of preaching to them, or praying for them while in the dirt. Give our worst men a clean shirt and a clean sheet every week, and a good square meal of wholesome well-cooked food three times a day, and you have taken away at least half of their ugliness."

Would it shock the public sense of propriety to suggest that a prisoner's room—cell, as it is commonly and, perhaps, properly named—should be made as cheerful and homelike as possible? This idea is antagonistic to the general opinion held on the subject. Where does the punishment come in, is the first question. With punishment, as has already been said, the state has nothing to do. It is a punishment to deprive a man of his liberty,

even if he be kept in a mansion ; but punishment, as such, is no part of the true object in treating a criminal. Necessarily it becomes more or less of a factor, in order to secure the real object.

Many criminals have never spent a day in all their lives in a clean, neatly furnished room. Let them have a chance to draw a contrast between filth and cleanliness, neatness and slovenliness, and perhaps that in itself may help to convince them that more happiness can be found in a course different from the one they have pursued. The objection is made that, unless our prisons are disagreeable and uncomfortable, crime will increase. The degrading, bare-wall kind of reformation has been given a thorough test in all parts of the world ; and still the prison population is increasing in twice as great a ratio as the number of inhabitants. Should not our harsh-minded friends be willing to let somebody else try ? They have had their way since the *donjons* of the feudal barons, and their plan has proved, beyond all doubt, what reason teaches, that harsh punishments neither reform criminals nor frighten others from committing crimes.

There are more convicts to-day in the Eastern Penitentiary of Pennsylvania than there were in all the prisons in the State in 1860. At that time there were in the Eastern Penitentiary three hundred and eighty-six prisoners ; in the Western Penitentiary and the county prison of Allegheny County, one hundred and seventy-five. On the first day of January, 1890, there were in the Eastern prison eleven hundred and sixty ; and in the Western, on January 1, 1889, the number was six hundred and ninety-seven. The number in the county prisons of the State shows a like increase.

The same is true of other States. The number in the Northern Indiana State prison, on the 31st day of Oc-

tober, 1864, was one hundred and fourteen; on the 31st day of October, 1889, there were seven hundred and forty-eight. Should not this convince those who believe in the punitive theory of dealing with evil-doers that their plan has been tried only to be found wanting?

It has been said that the difference between a wigwam and a lady's parlor illustrates all the progress of the race for five thousand years.

The convict's room cannot be made a parlor, but it should not be less cheerful than a wigwam. Nor has society any right to complain of the expense. It permits crime to stand ready for somebody to commit, and it furnishes idle loafers to commit it; hence it should be ashamed to whine about paying for its own folly. If it prefers to pay prison tax rather than school tax, it should blame no one else; if it lets schools of vice stand open day and night in country, town, and city, it should not whimper about paying to support the graduates of these schools.

Society is more inconsistent in dealing with her unfortunates than Satan would be in rebuking sin. It makes the criminal, or at least furnishes all the ingredients for his composition, and offers no resistance to his creation. After it has made him, it is afraid of its own creature, and shuts him up. It expects him to reform, but without affording him a single reforming influence. It asks him to earn not only his own living, but money besides for the state, and yet it raises an insurrection against convict labor. So great indeed has this demagogical cry against prison labor become that some legislators, acting cowardly, foolishly, and wickedly, have either abolished it entirely or crippled it so as to render it almost useless.

Governor Beaver, of Pennsylvania, in a message to the Legislature, made use of the following apt language on

this subject: "If prisoners are to be reformed and returned to society better than when their imprisonment began, they must be furnished with some employment. This is as important from the standpoint of the reformation of the criminal as from that of his ability to provide for his own maintenance while in prison. It may be that some legislation on this subject will be necessary. If so it is to be borne in mind that the reformation of the criminal is the first consideration, and that no question of profit arising from his labor should be allowed to influence us in the disposition of the subject."

In many of our prisons neither teacher nor chaplain is found. The Southern States, as a rule, are, at least, a quarter of a century behind the North in their prisons and prison management. As some one puts it, "their prisons are bounded only by State lines." They lease their prison labor, and their convicts are worked in mines, on railroads, farms, public buildings, etc., wherever the contractor may see fit to take them in the State. Double-barrelled shot-guns and the lash are the moral forces greatly relied upon for discipline. When convicts are out at work in gangs, they are guarded by armed men, and any attempt to escape is likely to end in a funeral, with few mourners.

In Texas, in 1881-82, the number of men committed to prison hospitals with gun-shot and miscellaneous wounds was fifty-two, and of the deaths thirty-six were ascribed to the breech-loading shot-guns. There were three hundred and ninety-seven escapes.

Legislation and public sentiment in the South need quickening on the subject of prison reform. There are many good men in the South engaged in prison management and the work of prison reform who have advocated a better condition of things, but there, as elsewhere, law-

makers have other subjects that they regard as of more importance. The large negro population of the South, nearly all poor and ignorant, makes the criminal problem in the South a much more serious question than it is in the North.

Pennsylvania claims the honor of having the first State prison in the Union, the one at Philadelphia being erected in 1790. She also has the only American prison on the "cellular" or individual-treatment method, the Eastern Penitentiary of Pennslyvania, which was opened in 1829, being on that plan, which is also known as the Pennsylvania system.

In this prison convicts are never permitted to associate, or even to see one another. They eat, sleep, and work in their cells, to each of which is attached an exercise yard. The prisoner is allowed to see proper visitors. The system has many advocates, who argue that the association of convicts of all grades of wickedness makes the work of reform much more difficult than it is under the cellular method. In the cellular prison each convict is supposed to learn a trade.

In the "congregate," or Auburn system, as it is called, the one almost universal in the Northern States, and in fact all over the world, the inmates work together, and in some prisons eat together, being separated at night. Instead of learning a trade, they usually learn a part of a trade, and that may be confined to running a machine. It certainly is better to have each one fitted to carry on some trade after leaving the prison. A man who is able simply to run a machine to put a heel on a boot, or some such thing, might be obliged to wait a long time for employment, while if he had learned the trade of shoe-making, for example, he could at least do repairing. An intelligent warden observes:

"Send a man out from here with a knowledge of a trade and he may come back, but the chances are that he will not. Send him out without a trade and he may not come back, but the chances are that he will."

Each system has its enthusiastic defenders, but all agree that there should be a classification of prisoners; that the hardened beyond hope of reform should not be associated with those whose criminal impulses are less marked. No one needs to be told that it is hard enough for a weak, depraved man to reform when surrounded by the good; next to impossible, when associated with the most vicious and hardened of his race.

If prisoners could be classified, not according to age or length of sentence, but according to their moral sense or the lack of it, it would certainly be an important help in the work of reform. The better the class the larger it should be, and the more privileges they should be granted. What would be wrong in allowing each class to have its own little world inside of prison walls? If they want to have a prayer meeting or a debating society of their own, why not permit them the privilege, so long as they conduct the meetings in an orderly manner?

In the Minnesota State prison, at Stillwater, the inmates publish a weekly paper called the *Prison Mirror*, a much more creditable sheet, by the way, both in typography and matter, than many papers published by the wise and good. It is published in the interest of the prison library, and cleared one hundred and fifty dollars the first year, after paying for the outfit. Here is a bit of wisdom from the *Mirror*: "There are many foolish persons in the world who imagine they would be happy if relieved of all responsibility. Let all such consider the life of a convict and be instructed. The convict is actually relieved of all responsibility, yet he is the least contented and most un-

happy creature in the world. Responsibility is the thing we want most when we have n't got it and want least when we have most of it."

Every convict should receive a part of his earnings, a plan already adopted in some prisons. As a rule the inmates of our prisons are poor. Very often the conviction of a man means the removal of his family to the almshouse or their resort to a worse fate. It is a wonderful stimulus to a man's energies, to his manhood, to his desire to lead a better life, to know that he can send to those dependent upon him some evidence that he is not totally bad. Those who have no friends to support will find their earnings a most valuable aid when they leave prison walls, to keep them until they find employment. Criminals are not fed on the fat of the land, nor dressed in purple and fine linen while in prison, and their labor should more than feed and clothe them.

In one of our prisons—one of the best, too—the report shows that the average cost of each of the nine hundred and ninety-eight prisoners in 1888 for food was twelve and a half cents per day; the average cost of clothing for the year, five dollars and eighty-seven and a half cents; and the average cost of fuel, seven dollars and seventeen cents.

The warden says that owing to the high price of pork and beans, which were used in large quantities, the cost of living was increased for the year. The next year, 1889, the same prison shows that food costs twelve cents per day, clothing seven dollars and sixty-eight cents for the year, and fuel three dollars and seventy-nine cents. This prison is well managed, and has jumped all the way from the tallow dip to the electric light at a bound.

The dogma that the products of prison labor must not be sold so as to come into competition with outside products is a wicked fallacy.

The labor of all the prisoners in the United States at their full capacity would not be a drop in the bucket, and can do no harm, only as it gives a few demagogues an opportunity to howl, and angers a few manufacturers with whose products prison labor comes in competition.

Some manufacturers want the earth. They not only ask to be protected by a tariff wall from the industries of the old world, but they even have the assurance to demand that certain manufactories at home be closed to keep them from interfering with high prices.

These men in prison ought to be at work if they were at liberty, and surely they cannot produce enough more in prison walls to cause danger to the whole manufacturing interests of the country. If this planet cannot afford employment for all its able-bodied men at living wages, whether in prison or out, a commission of scientists should be appointed to suggest the best means of blowing it into fragments, without waiting for Gabriel's trumpet to sound the signal of destruction.

The wages of a convict should be fixed at a fair rate, and every cent he earns above the cost of his maintenance should be given to him or placed to his credit, as he may prefer.

A. E. Martin, warden of the Anamosa, Ia., State prison, says: "Our prisons should be made as reformatory as possible, and no system is reformatory that does not inspire the downcast citizen with hope for the future. Hope is the beacon-light of the soul. When it is wiped out, men have no reason for striving to be better. Give the convict the knowledge that he can earn something every day he remains in prison, and he becomes a willing laborer. His value to the State and to himself is at once increased, because he becomes interested in his work, and his good behavior is in a large part guaranteed."

The late ex-Governor Hoyt, of Pennsylvania, said in one of his messages: "In neither of the penitentiaries of this State has there ever been an attempt to administer them on the vulgar, wicked, and unworthy consideration of making them self-sustaining. In neither of them has it been forgotten that the criminal is a human being, and that his body and soul are not the property of the State so that both may be crushed out in the effort to reimburse the State the cost of his scanty food, and at the end of the term what there is left of him be dismissed an enemy of human society."

Another reform that is slowly crowding its way to the front is the indeterminate sentence. All intelligent prison wardens who make reformation the leading feature of their work well know that in many cases every day a prisoner is kept beyond a certain time he is growing worse, and the likelihood of his leading an honest life is growing less. The Hon. Richard Vaux, venerable president of the Board of Inspectors of the Eastern Penitentiary, is opposed to the indeterminate sentence, but he said in his report of 1854, and repeated it in 1871:

"There is a period in the history of every criminal's punishment when his liberation would most benefit him, and hence society would gain by the improvement afforded in reclaiming an offender. Those whose constant intercourse with convicts enables them to form an opinion on the subject admit that such periods occur when most decided advantage would result from the prisoner's liberation."

After this plain and forcible declaration, it is difficult to understand how the man uttering it can be opposed to the indeterminate sentence. One thing is certain: nothing that Mr. Vaux has ever urged against it is half so clear and emphatic as his declaration in its favor.

Nothing can be more haphazard than the method of passing sentence on those convicted of crime. One judge imposes a sentence of one year, while another enjoins three or five for the same offence, the age, antecedents, and surroundings of each convict being similar. In Michigan, during the year ending September 30, 1887, there were eight convicts sent to the Jackson Penitentiary for assault with intent to commit murder. One was sent for forty-five years, one for twenty-five years, one for fifteen years, one for nine years, one for six years, and one for one year. If these men ever compared notes as to the length of their respective terms, how would the contrast be likely to strike them as an example of justice? It is said that criminals who were tried near the end of the term in the early English courts stood a much poorer chance of escape than those tried earlier in the session. The judges were cross and tired, and their ill-nature asserted itself to the detriment of the victims before them.

It can be said truthfully that in some American courts in this last quarter of the nineteenth century, whether the convict receives a light sentence or a heavy one depends somewhat on the number of drinks his Honor has taken before performing the sad duty. It is a matter of congratulation, however, that the number of this class is no larger.

The great majority of those who reach the seat of justice are men of character, learning, and ability; but how can the ablest and purest among them tell in advance how one of their convicts will behave when sent to prison, or how much effort do they make, as a rule, to find out how he acted before conviction? After the accused have been convicted they are told to stand up for sentence, and whether they are criminals from choice or necessity makes but little difference. Passing sentence

is about as mechanical a piece of work as scaling logs. A man is convicted of larceny. The judge opens his book and finds the penalty for larceny is imprisonment from one to ten years. He averages the case up, owing to the mood he is in, and in accordance with the respectability or the lack of it on the part of the prisoner's friends, and he says, "four years and six months." Another victim, who looks a little more vicious, but is, perhaps, the better of the two, gets six years and three months. They may be men who should be out within a year or two, or they may be such as should never be permitted to return to endanger society. How can the judge tell? The Inspectors of the Northern Indiana prison say that they have long-time men, some of them life convicts, who should be at liberty, while they have others under the shortest sentence who should never be released.

Unless the judge can form a tolerably correct idea of the moral status of the prisoner before him, how can he fix with any degree of certainty the length of time that the victim should serve in order to be of most benefit to himself and consequently to society? One of the oldest and ablest judges in Michigan, a writer of standard authority, said a few years ago: "I have long since ceased to form for myself any conception or idea whatever of the moral status of any prisoner whom I may have before me." His reason is not given, but it may be assumed he had learned from experience that it was simply impossible for him to form any accurate opinion, and he had given up trying to do so.

When a man has violated the law so as to necessitate his removal from society, the principle that appeals to every man's judgment is that he should be detained until it is considered safe to send him back, whether that be in six months or not till after he is a corpse.

Judge Hill, of Iowa, away back in 1855 struck on the right principle. In a charge to the jury he said: "As no training, however enlightened or vigilant, will produce its effect on every individual subjected to its discipline, what are we to do with the incurable? We must face the question. We must not flinch from answering that we propose to detain them until death. We keep the maniac in prison under similar conditions. You guard against his escape until he is taken from you, either because he is restored to health or because he has departed into another world. If innocent misfortune is and must be so treated, why not thus deal with incorrigible depravity?"

The report of the Committee on Prisons, held at Baltimore in May, 1890, on this subject said: "The right to liberty should depend on the proper use of it. A man who is at war with the race, whose hand is against the world, should be in permanent confinement. This would meet with favor in the minds of most thinkers if its operation could be shown to work justly. It has found expression in several States of the Union in Habitual Criminal Acts which provide for a life sentence upon the third conviction. The convict should be retained until he gives evidence of a determined purpose to observe law, and then he should be paroled, which will enable him to establish the permanency of his new resolutions under all the temptations and difficulties which would then surround him. If he is still incapable, and is found in violation of the terms of the parole, he should be taken back into prison without further expense."

Ohio, Illinois, and New York have a modified form of indeterminate sentence, and those who are watching its effects are much pleased with the results thus far. Of five hundred and forty prisoners in Ohio released on

parole, but forty were returned for failure to comply with the conditions of their release. Perhaps the best prison in this country, if not in the world, is the Elmira, N. Y., Reformatory, under the superintendence of Z. R. Brockway, one of the most successful and progressive prison managers in the country. The sentences to this institution are indefinite, except that the court imposes the maximum length of time that the convict shall be kept. Education is as strictly enforced as in any military school, and the examination papers that have been published indicate considerable proficiency on the part of the inmates, not only in the common branches, but in political economy, civil government, and the natural sciences. About ninety per cent. of those sent out seem to make good citizens.

Let a prisoner know that his stay in prison depends on himself, and he will most likely begin a course of life to shorten it. On the other hand when the sentence is fixed, he knows that when the time has expired he must be released, no matter whether he is better or worse than when he entered. The country is overrun with unreformed ex-convicts, who are constantly impressing their own character on the youth and criminally inclined with whom they come in contact. The number discharged from the two State prisons of Pennsylvania in 1888 was seven hundred and eighty-eight; not discharged because they were fit to go back to a life of freedom, but because their terms, some too long, some too short, had expired. There is not a prison warden in the country who does not rejoice when he can say to a reformed prisoner: "This is your last day here. Go, and may God be with you." But is there a warden who is not sorry in many cases when about to release a convict who has been entrusted to his care? He feels absolutely certain that he is let-

ting loose a bad man to corrupt others, to violate law again, and finally to come back to prison more hardened than ever.

The indeterminate sentence, of course, throws a great responsibility upon those who must decide when convicts are to be released as safe persons to be at liberty. Somebody, however, has always had to assume the responsibility, and somebody always must do so. Certainly those who are in company with the prisoner every day, and have advantages for studying him, are better qualified to assume this duty intelligently than anybody else, and especially are they better qualified to decide the question of length of sentence, than the judge who sees the criminal, perhaps, but an hour or two before passing judgment.

It is a very critical period in a convict's life when the time comes for him to leave the prison. Society cares as little for his coming as for his going, and it will require courage to stand up and face the odium that the world wrongfully heaps on those who have served in the "pen." Chaplain Milligan, of the Allegheny Penitentiary, remarks: "I have seen physically strong men quiver with the alternations of hope and fear as they started from the prison threshold. Their words were few. They meant all that they had promised themselves of manly effort in the future opening up before them with its renewed temptations. Though the garb and restraint of their cellular life had been cast aside, and free air and free choice again granted, they well know that the way is to have new difficulties. He is conscious of the stigma which he fears every one he meets recognizes as pressed upon his brow."

If he has not been allowed a share of his earnings he will have barely enough to take him to the place where he had made up his mind to look for employment. If some one would take him by the hand and show him a little

genuine sympathy, it would do much to start him on the straight and narrow way; but to shun him as a thing of evil, to shrink from his touch and avoid all contact with him, will be likely to rouse a slumbering devil.

Those who employ strangers may want testimonials as to character; but what chance would an ex-convict have of getting work by saying his last service was in the penitentiary. He is ready to work, but how can he work with no one willing to employ him? Is it to be wondered at that some men have been known to violate law for the very purpose of getting back to prison? There no companions can taunt them with being ex-convicts; all are convicts. No one will shun them as things of evil, because all are regarded as evil, and they find more sympathy there than in the world of freedom.

If society would show that it expects these men to be honest, and give them a chance to live by honest means, reforms would last longer than they do. It is not enough to say: "God bless you, I am glad you are going to live an honest life." Blessings will not buy bread, and get a man honest employment. Blessings will not remove the idlers that haunt his path and tempt him back to his old pursuits. Blessings will not close the door of the saloon that lures him from his good intentions. He asks for bread, society gives him a stone.

In some states there is an officer whose duty it is to find places of employment for discharged convicts. How much more sensible, humane, and effective such a plan, than that of taking a man to the prison door, handing him five dollars and telling him to go. He goes, but too frequently soon returns.

CHAPTER XIV.

WAR.

> **One murder makes a villain ; millions a hero. Princes are Privileged to kill, and numbers sanctify the crime.**
>
> PORTEOUS.

HE who writes on a subject in which murder is a factor should not overlook the greater evil of war—a species of wholesale murder, always premeditated, if not always malicious. To say that men, armed and trained for the express purpose of killing their fellows, can meet and shoot one another down in cold blood, without a feeling allied to malice, is to deny the natural feelings that control men's actions.

One cannot do another a greater personal injury than to take his life, and when this is done intentionally, what does it lack of the elements of murder?

A lawyer may argue that the difference is in the motive, that the soldier's intention is good; but is not a man's deliberate and voluntary action the strongest evidence of his intention; and, besides, can an evil action be justified by a good intention? The murderer, who steals into his neighbor's house and takes his life, may have an intention good enough to satisfy himself, but does that make his action right, and would it be right even if a majority of his fellows agree that his intention was good? His motive may have been to take money that his victim had acquired by robbery or selling whiskey, and devote it to foreign missions, but would a lawyer attempt a defence on that,

or would the most ardent mission worker justify the act on the ground of so good an intention? His object may have been to rid himself of a dangerous enemy who was threatening his life; this would certainly be as valid a motive as the intention of the average soldier, but would not a good attorney rather risk a defence on the insanity dodge than on such a plea of good intention?

It may be argued that malice presumes a wicked and depraved heart; some soldiers have such hearts. Would these be guilty of murder for shooting down their fellow-creatures, and good Christian soldiers for the same thing deserve only glory and praise? Malice, to constitute murder, need not be against the individual killed; for if one shoots at one person and kills another, it is murder, though the one killed may have been a dear friend, against whom no feeling of unkindness existed. Nor is it necessary to constitute killing murder, that malice be directed against any one in particular. If a person shoots into a crowd of strangers and kills one, it is murder.

The other argument is that the soldier kills from necessity. But does he do so? Does he not usually offer his services in exchange for a fixed price, and is it not the volunteer soldier who is especially honored? The Quakers say that it is a necessity not to kill, and they do not stain their hands in blood, either in peace or in war. There never has been a war since the world began in which both sides to the conflict were justifiable by any recognized principles of right, and but few in which either side was so justified.

Lawyers may split hairs and logicians draw their syllogisms as fine as gossamer, but the greatest difference they can show between war and murder is that the greater crime is committed by the state, the less by the individual.

War is the crime of crimes, and is not so defined in works of criminal jurisprudence simply because there is no legal tribunal to punish it. It may be said to punish itself, for it brings a fearful retribution to those who actually engage in it, as well as to those who are more remotely interested in it. It is a crime against man, woman, and child; against property, reason, and morals. It means killing and maiming, robbing and burning. It is a school in which is taught murder, larceny, idleness, and vice of every form. "Every war," the German proverb says, "leaves three armies: an army of heroes, an army of cripples, and an army of thieves." As General Sherman said to the Mayor of Atlanta in 1864: "War is cruelty and you cannot refine it."

The military spirit, as such, should be abhorred by all who have the least regard for either life or property, for the business of the military hero respects neither the one nor the other.

The idea of honor and glory has in some inexplainable way long been associated with war; but honor and war are as incongruous as vice and virtue. In early days, great respect was paid to physical strength, and as this was a very necessary element in a soldier, when war clubs, battle axes, and such weapons were used, the idea of honor may have grown out of those contests, horrible as they were.

If there is any honor in war, to whom shall it be given? As some one says: "Surely not to those who stay at home and hire others to do the fighting; who sleep in their warm beds and hire others to sleep on the damp, cold earth; who nurse the slightest hurt in their own bodies and hire others to expose themselves to mortal wounds and linger in comfortless hospitals. Certainly these reap little glory from war. But what is the busi-

ness of those actually engaged in war? It is to destroy human life, to mangle the limbs and hew the body, to batter down and burn cities, to turn fruitful fields into deserts, to multiply widows and orphans. Is there any glory in this? Were we called to name the exploits worthy of demons, would we not naturally select such as these?

We have thought it honorable to heal, to mitigate pain and misery; if these be honorable, what can be said of the means that multiply torture and death? As Byron has it:

> "The drying up of a single tear has more
> Of honest fame than shedding seas of gore."

It is said that war indicates a patriotism on the part of those who do the fighting. Patriotism is a very shadowy term. The very thing that was patriotism in Washington and Bolivar was treason in Emmet and Kosciusko. Patriotism of the average kind is the feeling that induces a man to stand up for his town, right or wrong, against all other towns; for his county against all other counties; and for his state against all other states. Patriotism is induced too much by imaginary geographical lines, and too little by feelings of right and justice.

Richter's saying, "Love one human being truly and warmly, and you will love all," has a good deal of truth in it, and the man who has enough kindness in his soul to love his own country truly will never willingly lend his aid to devastate another just across the line, by the demon of war. The patriotism that loves its own country truly and hates all others, is a very narrow kind, and unworthy of the name. If patriotism consists chiefly in a willingness to fight for real or assumed rights on the slightest pretext, savages are the most patriotic people in

the world, and some of Africa's degraded tribes possess it in a high degree.

Will not patriotism call forth every effort to save its country from the dread curse of war and the evils that follow in its wake? What higher object can patriotism have than caring for the safety and happiness of the people, and what can possibly conduce more to their misery and degradation than war? What sort of a false, sickly sentiment is it that induces men to think more of national honor that calls for blood as a vindication, than they do of life, wife, children, friends, and home? What is home without a country? is a favorite patriotic quotation, but to the more practical man it might be read, what is country without a home? A great deal that passes for patriotism is of the Fourth-of-July, sky-rocket, fire-cracker, and gun-powder kind: those who have the hardest attacks of it know the least about the real interests of the country, and usually, least about every thing else. Men who do not have a square inch of ground that they can call their own, unless it is the little lot in Potter's field, six feet by two, which they feel will kindly be given them in due time, are louder in their patriotic declarations regarding our glorious country, where all are born free and equal, than the millionaires who control every thing we eat, drink, wear, and burn.

The courage of warriors has been much praised both in history and poetry, and yet courage is a very doubtful quality. It may be good or bad, intelligent or ignorant, and unfortunately the ignorant kind usually calls forth the loudest demonstrations of praise. For pure, unadulterated, stupid animal courage, the bull-dog compares very favorably with any warrior bold that ever strutted forth in gaudy uniform.

He is equally willing to attack a cat or a lion. He is

entirely lost to the sense of danger, nearly so to the sense of pain, and it makes no difference whether the purpose for which he is risking his life is worthy or ignoble.

The courage of the bull that disputed the right of way with a locomotive is not considered worthy either of admiration or emulation, and yet how much inferior was it in point of intelligence to the charge of the six hundred who rode to death at Balaklava—an exploit which the historian calls brilliant but useless. It must require a man to have a good deal of antediluvian blood in his veins to see any thing even brilliant in it. Its brilliancy was of the kind illustrated by the anecdote related of Sir Astley Cooper, the great British surgeon.

He was asked by the Surgeon-General of France how often he had performed a certain surgical operation requiring great skill. He replied that he had operated in thirteen cases.

"Ah, Monsieur," said the Frenchman with a look of pride, "I have perform him a hundred and sixty time. How many time you save his life?" asked the Frenchman when he saw that Sir Astley was astonished.

"I saved eleven out of thirteen."

"How many did you save of the hundred and sixty?" asked the Englishman.

"Ah, Monsieur, I lose dem all:—but de operation was very brilliant."

The charge at Balaklava was simply the foolhardy rushing of six hundred men to almost certain death; but the poet has paraphrased the story into a glorious lesson for boys and girls to read, and the compilers of school-readers have placed it where it will be sure to receive attention.

Would not a few selections on the horrors, the foolishness, and the wickedness of war, and the duty of all

good people to avoid it as they would a deadly pestilence, be more in keeping with the principles of Christianity as well as of good-sense?

This is one great cause of the war spirit as it still exists. The boy reads glowing accounts of battles. He sees the pictures with the general at the head of the column pointing with his sword to the enemy. His epaulets, sword, gay uniform, and military hat captivate the youthful fancy, and the boy makes up his mind that he would rather be a general than the best preacher in the world. He does not see the battle as it really is, the brave general away back in the rear in a safe place with a field-glass. He does not see the mangled bodies, nor hear the groans of the wounded, nor realize how many innocent hearts are made to bleed by that one battle. He simply has in mind the hero, his adventures and honors, and he longs to be a chieftain.

Many histories seem to be made in the interest of the military profession, on the idea that all there is in a nation's history, worth describing, are the wars, battles, and generals. Histories could be named that devote four times as much space to the French and Indian war as to all the important improvements and inventions of peace that have been made in six thousand years.

Incidents relating to war are pictured in glowing colors by the historian and the poet, and when fact fails to furnish material they do not hesitate to draw on fancy. Many of the historical examples of valor and patriotism are pure fabrications. The gallant behavior of Barbara Frietchie, as she stood waving the stars and stripes from her attic window in Fredericktown, asking Stonewall Jackson to shoot her old gray head, but to spare her country's flag, and Stonewall's chivalry in threatening the death of a dog to any one who would harm a hair of Bar-

bara's cranium, made a very pretty story. The poem was recited by every elocutionist in the country, and read by every school-boy and school-girl until it was committed to memory. The good Quaker-poet's name as the author seemed to guarantee its truthfulness; but, alas! it has been admitted by Mr. Whittier himself that the poem did not have the shadow of truth for a basis; that no such event ever took place.

Sheridan's ride at the battle of Winchester, as depicted by Thomas Buchanan Read, is a thrilling event. The twenty miles, however, were only twelve, and no mention is made of the escort of twenty men who rode as fast and as far as General Sheridan.

French historians, and even Carlyle in his "French Revolution," and Alison in his "History of Europe," give a vivid description of the naval engagement between the French vessel *Vengeur* and some English vessels, that took place in 1794. The *Vengeur* was disabled and sinking. The crew used the lower tier guns until they were submerged, then rushed to the next tier, and so on until they were forced to the deck guns. Finally the water rose and the vessel began to sink rapidly. The crew would not surrender, but with arms stretched toward heaven shouted, "Long live the Republic," and "Death is better than surrender," as the waters closed over them. This is history, but a letter written by the captain of the *Vengeur* shows that she had struck her colors, that all the crew that could be taken off before she went down were rescued, and that the remainder shrieked for help as they went down. No shouts of "Long live the Republic," but only those of horror and despair.

Some of our histories describe in a thrilling manner how Admiral Farragut lashed himself to the mast-head at the battle of Mobile Bay, so he could signal his vessels as he

sailed past the belching guns of Forts Gaines and Morgan. He never did any thing of the kind, unless lashing two vessels together could be construed into lashing himself to the mast-head. He was not tied to the mast, nor did he go aloft, but went into the main rigging of the *Hartford*, where he could get a good view.

An able Scotch writer says, "It is probable that not one fact in the whole range of history, original and derived, is truly stated."

Voltaire adds, "History, after all, is nothing but a parcel of tricks we play with the dead."

As Matthews puts it: "Popular opinion and the so-called dignity of history too often compel the writer to subordinate faithfulness to impression. Agesilaus must not hobble, nor the neck of Augustus be awry. Hannibal must not be one-eyed, nor Marshal Vendome hump-backed. Suwarrow must be a giant in body as well as intellect. Nelson, though dwarfish and lame, must stride the deck with the body as well as the soul of a hero. Washington must always spell correctly. All must call 'Old Put' General Putnam, and never have him swear or pitch an offending servant out of the window. All the facts must lose their ugliness or grotesqueness and have the smoothly clipped uniformity of a Dutch yew tree.

"Not only has Richard III. been reconstructed so as to lose both his physical and moral hump; not only has the Blue Beard of English history, Henry VIII., been transformed into a model husband; not only has 'bloody Mary' lost nearly all her blood, except that running in her own veins; not only has Catiline been whitewashed into an abused patriot, but even the bloody Borgias have been bleached. The Duke of Alva has been changed from a cruel and cold-blooded bigot into a cool, moderate, far-seeing statesman. Catharine de Medicis has been whitened, and

Nero himself, the synonym of cruelty, will doubtless prove to have been outrageously slandered, and some Froude or Niebuhr will yet show that when he fiddled while Rome was burning, he was only playing some Dead March in Saul, or other funeral strain, as a safety valve to his feelings."

If this is the truth regarding history, and no doubt it is, should we not exercise more care in selecting historical works to put into the hands of children? The writers of histories usually aim to make their books entertaining, whether the lessons they teach be good or bad, true or false.

Let us teach our children to become a nation of peace-makers. To do this we must see that what they read and study teaches peace and not war.

The child mind is easily but strongly impressed. A lady was once lamenting to a friend that every one of her sons had grown up with an ungovernable desire for the sea, though she had done all in her power to dissuade them. She could not understand why it was so. "There," said her friend, pointing to the finest picture in the room, that of a fine ship in full sail, "there is the force that has drawn your sons to the sea."

Noah Porter, D.D., LL.D., in his "Books and Reading," uses this language: "A few pages in a single volume fall, as it were, by chance under the eye of a boy in his leisure hours. They fascinate and fix his attention; they charm and hold his mind; and the result is that the boy becomes a sailor and is wedded to the sea for his life. No force nor influence can undo the work begun by those few pages; no love of father or mother, no temptation of money or honor, no fear of suffering or disgrace, is an overmatch for the enchantment conjured up and sustained by that exciting volume."

The poet Burns adds his testimony as to the lasting effect of warlike literature on the young mind. I quote

from his memoirs: "The first two books I ever read in private, and which gave me more pleasure than any two books I ever read since, were 'The Life of Hannibal' and 'The Life of Sir William Wallace.' Hannibal gave my young ideas such a turn that I used to strut in raptures up and down after the recruiting drum and bagpipe, and wish myself tall enough to be a soldier; while the story of Wallace poured a Scottish prejudice into my veins, which will boil along there till the flood-gates of life shut in eternal rest."

The influence of literature on the child mind was recognized by Edward I. of England, who found great trouble in dealing with the Welsh, who were brave and warlike. We read in Hume: "The King, sensible that nothing kept alive the ideas of military valor and of ancient glory so much as the traditional poetry of the people, which made deep impressions on the minds of the youth, gathered together all the Welsh bards, and from a barbarous, though not absurd, policy, ordered them all to be put to death."

This was rough on the bards, and besides capital punishment is unworthy of any government for any purpose, yet, if it had been exercised on all who have helped to keep alive the military spirit, it could be looked upon with less abhorrence than it now deserves.

It certainly is no longer necessary to engage in war to show that men have courage. If the millions who have permitted themselves to be led like dumb animals to the slaughter on bloody fields do not prove that men have a sufficient amount of courage of this kind, the fact is incapable of demonstration. This, however, is not the highest type of bravery, and those who display most of it may at heart be cowards.

Many who have marched up to death through the smoke and excitement of battle with no indication of fear, have

been known to shudder at the thought of danger and pain when imminent.

Only a year or two ago the cadets in one of our military schools were called upon to be vaccinated, and one or two who, no doubt, would have behaved gloriously on the field of battle, actually fainted before the surgeon's knife had touched their arms. Three years ago a child fell from a New York wharf into the water. A young lady, after waiting a sufficient length of time to give the men a chance to distinguish themselves, plunged in and saved the child. Among those who stood by were four or five old soldiers who had faced death and danger on many a bloody field. Soldiers noted for their bravery in the service, when about to have a tooth extracted, have been known to show a spirit unbecoming a school-girl, and some valorous warriors have been so much afraid of nothing that they would not sleep alone in a dark room. An old soldier in our late war, who had met the enemy on many occasions, while out foraging was frightened almost to death by a pugnacious ram, and was nearly exhausted when he reached the nearest fence. When he gained the side of the fence opposite his ramship his courage returned. Hundreds of men who made good soldiers lack true courage to assist a needy neighbor suffering from a contagious disease.

Thomas Carlyle, after saying that courage was Samuel Johnson's characteristic good quality, adds:

"The courage that can go forth and have itself shot and snuffed out with decency is nowise wholly what we mean here. Such courage we indeed esteem an exceedingly small matter, capable of co-existing with a life full of falsehood, feebleness, poltroonery, and despicability. Do not recruiting sergeants drum through the streets of manufacturing towns and collect ragged losels enough,

every one of whom, if once dressed in red and trained a little, will receive fire cheerfully for the small sum of one shilling *per diem*, and have the soul blown out of him at last with perfect propriety? The courage that dares only die is on the whole no sublime affair; necessary indeed, yet universal; pitiful when it begins to parade itself. On this globe of ours there are some thirty-six persons that manifest it seldom with the smallest failure, during every second of time. Do not the offscourings of creation, when condemned to the gallows, as if they were not men but vermin, walk thither with decency, and even to the scowls and hootings of the whole universe give their stern good-night in silence? Considered as duellist, what a poor figure does the fiercest Irish whiskerando make, compared with any English game-cock, such as you may buy for fifteen pence? The courage we desire and prize is not the courage to die decently, but to live manfully."

In most men courage has its origin in a happy state of the body. It belongs to the nerves rather than to the character. In some it is an instinct, bordering on rashness. In one it springs from strong passion, ignoring the idea of danger. In another, from the want of imagination, or want of capacity to bring future evils near. The courage of the uneducated may be traced to stupidity, to the absence of thought and sensibility. Many are courageous from the dread of the infamy absurdly attached to cowardice. One terror expels another. A sneer is more formidable than a bullet. Courage, considered in itself without reference to its causes or aims, is of no value and deserves no esteem. It is possessed by the best and by the worst.

The most wonderful examples of courage may be found in the history of pirates, highwaymen, and savages, and in barbarous countries where the children are taught to de-

spise fear, pain, and danger. If simple indifference to fear and pain is a courage worthy of praise, prize-fighting and duelling should be encouraged, for they both require this ignorant sort of bravery in a high degree. It perhaps requires more true courage to accept philosophically the charge of being a coward than it does to fight a duel, and just in proportion to the increase of real courage among men will duels and wars become scarce.

In late years there are but few men in this country whose sense of honor is so delicate, and whose ideas of courage so crude, that their wounded sensibilities cannot be relieved without the shedding of blood. It is hardly ever considered necessary now to fight, even in the South. Occasionally we read of men who do not consider their lives of much value to themselves or anybody else, or at least they seem anxious to convey this idea. One sends a challenge to mortal combat and another accepts. Seconds are chosen, weapons selected, the time and place fixed for the bloody fray. When the hour arrives they meet, take their positions, get ready at the word, fire, shake hands, and go home, unhurt, of course, but the balm of consolation has been poured over their damaged honor, and they are satisfied that their courage is looked upon by the fellows as being up to their proper standard.

Why do not governments take a hint from the progressive duellist? When they feel that their national honor has been fractured and their courage impeached, let them meet in battle array, point their guns, and fire into the air to show that they can fight and are not afraid to fight, and then, when their high sense of honor is satisfied, and they have convinced the other warlike nations that stand looking on like men around a dog-fight, that they are not lacking in courage, they can easily settle the cause of the trouble if they can but discover what it is.

The only apology or excuse made for war by any intelligent man is that it is a dire necessity. This has already been referred to briefly, but deserves further attention. If any necessity exists, it must rest on the basis given by Jeffrey, who says:

> "War, my lord,
> Is of eternal use to human kind,
> For, ever and anon when you have passed
> A few dull years in peace and propagation,
> The world is o'erstocked with fools and wants
> A pestilence, at least, if not a hero."

Milton says: "Necessity is the tyrant's plea." Suppose we admit that war is a necessity, is it not a horrible one, and should what would otherwise be a most heinous crime be transformed into an act of glory when done under the force of necessity? The hangman, under the plea of necessity, real or implied, sends a human being into the eternal world, but no glory attaches to his deed, and if war is ever a necessity, it is still a terrible calamity, and those who are forced to engage in it should feel humbled rather than exalted, that they are compelled to engage in so dread an occupation.

But is it ever a necessity? Never more than half so at the most. It is never a necessity with the aggressor, and if both sides are aggressors, then it is a crime, pure and simple, on both sides, without even the excuse of necessity.

Is it not the very object of government to prevent wars, to settle family feuds and neighborhood quarrels? Can it be a necessity for a government to engage in that very evil, on a large scale, which it is organized to prevent? Is it right for a government to be a peace-officer at home, in a small way, and a shameless desperado abroad in a case that concerns millions?

When two individuals disagree and threaten to fight, government interferes and says: "You must not settle your difficulty by force. That is brutal and unbecoming to civilized people. It is the purpose of your government to settle your quarrels peaceably and justly."

But when a few citizens of one country have a difficulty with citizens of another country, the government says: "Your national honor is at stake; your country is in danger. Show your valor. Resort to force of arms, and compel your enemies to accept your terms, and pay you an indemnity besides." The good doctrine about brute force is lost sight of, and is, in international difficulties, about the first thing threatened, and unfortunately the only means too often used to adjust differences. Is it possible that ignorant citizens can settle their disputes amicably, and enlightened governments must appeal to the sword to settle matters, trifling in themselves? If this be true, would not a people be better without government's protecting power?

Speaking on this point an able writer says: "The conviction is almost forced upon us, that governments have been the scourge of mankind, the great violators of every essential principle for which they were established; that governments, as such, have destroyed more life, more property, and to a greater extent jeopardized human liberty than could have resulted had there been no form of government, and each individual left to stand upon the immutable law of self-preservation, seeking his own mode of securing to himself those inalienable rights of which governments so often deprive him."

All that the most ardent military man can claim for war, is that it is the means to an end. But is there not an infinitely better way to reach the same end? If the easy and permanent settlement of an international dispute is

the end to be reached, then war is the worst possible method to attain it. War never settles questions except on the principle that might makes right, and when the might shifts to the other side, right, as interpreted by war, goes with it, and always at the cost of blood and treasure.

Does any one suppose that the boundary line fixed in 1871, taking Alsace and Lorraine out of France and placing them in Germany, will not be readjusted if France becomes strong enough to conquer her rival? Did the war of 1861 between the States permanently settle the question at issue? By no means. The result simply declares that some States can not leave the Union so long as the others have the power to force them to stay; but suppose a time comes when those who want to go out are stronger than those who wish to stay; then the same war principle that made it right for the seceding States to stay in 1861 will make it right for them to go when they have the power to fight their way out.

War, as a bloody court of last resort, is a sad failure in establishing precedents. Its judgments, written in blood by physical force, stand as law simply until a greater physical force reverses the verdict.

A southern historian at the close of the late war made this boast: "Civil wars, like private quarrels, are likely to repeat themselves when the unsuccessful party has lost the contest only through accident or inadvertence. The Confederates have gone out of this struggle with the proud, sacred, deathless, dangerous consciousness that they are the better men, and that there was nothing wanting but a change in a set of circumstances and a firmer resolve, to make them the victors. To deal with such a sentiment, to keep it whipped, to restrain it from a new experiment, requires the highest efforts of intellect, the most delicate offices of magnanimity and kindness, and

is the great task which the war has left for American statesmanship."

It is customary to say that the war forever settled the questions of secession and slavery. Slavery was wiped out as a result of the war, but it was not the issue on which the war was fought. It was agreed on all hands when the war began that its only purpose was to save the Union, and it was regarded by the war party as an offence to intimate that the contest was to be conducted for the purpose of freeing the negro. On August 22, 1862, President Lincoln wrote an open letter to Horace Greeley, in which he said:

"My paramount object is to save the Union, and not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; if I could save it by freeing all the slaves, I would do it; if I could save it by freeing some and leaving others alone, I would do it."

If those in rebellion had thrown down their arms previous to January 1, 1863, it is altogether likely that slavery would have lived to be a bone of future contention. The war settled beyond dispute that it is extremely dangerous and expensive, both to life and property, for a few States to attempt to set up government on their own account, but it did not decide that they could not attempt to do so. The result did not say, "You shall not attempt to secede," but "Attempt it if you dare"; just what all war verdicts say; and whenever the dared feel they are strong enough to cope with their enemy, then the attempt is likely to be made.

Abraham Lincoln, in a speech in Congress, January 12, 1848, said:

"Any people anywhere, being inclined and having the power, have the right to rise up and shake off the existing

government, and form a new one that suits them better. This is a most valuable, a sacred right, a right which we hope and believe is to liberate the world. Nor is this right confined to cases in which the whole people of an existing government may choose to exercise it. Any portion of such that can, may revolutionize and make their own of so much of the territory as they inhabit. More than this, a majority of any people may revolutionize, putting down a minority intermingled with or about them, who may oppose their movements. Such minority was precisely the case of the Tories of our own Revolution. It is a quality of revolutions not to go by old lines or old laws, but to break up both and make new ones."

Is this doctrine dangerous or false? If so it has the great Lincoln as its indorser, if not as its author, and those who care to read the speech will find it in the appendix to the *Congressional Globe*, First Session, Thirtieth Congress, p. 94.

What else could a man say on the subject from a war point of view? If a people have the inclination and the power, what else need they take into consideration? The thought of bloodshed and misery will not deter them, because they are the principal features of war, and those who believe in the sword as a reforming means are indifferent to the suffering and demoralization it brings. Lincoln states the whole case: the inclination and the power are all that is necessary in a war government as an excuse for any thing. Unfortunately, too, the inclination is controlled largely by the power, and nations that have the means to fight usually have the inclination close behind.

I have neither defence nor apology for secession, but have followed this line of argument simply to show how unstable and unsatisfactory are the verdicts secured by war at so great a cost. The great question as to the right

of a State to secede, even if settled for all time by the Civil War, should never have been trusted to so doubtful a court. Who knows but that the result hung on the issue of a single battle, and the result of that one battle perhaps depending on a single order, to be given without a moment's time for deliberation. John M. Daniels, of the Richmond *Examiner*, said that on July 3, 1863, the Confederates, on the heights of Gettysburg, were within a stone's throw of peace. The expression may be true, for the moral effect of throwing Washington, Philadelphia, and New York open to Lee's army can hardly be imagined, at a time, too, when the "vitals of the Confederacy were untouched." Could not the issue of the war have been determined in advance, with almost as much certainty of its being right, by the tossing of a penny—a method sometimes adopted by juries?

To knock a man down and pound him till he assents to our views is one way to get him to agree, but it will not convert him to our way of thinking, and when he gets a chance he will resort to the same method of reasoning and stab us in the back. Neither will love the other any better for the encounter, and the real point in dispute will be further from a permanent settlement than ever. The same is true in principle, whether the number engaged be two or two hundred millions; the more, the worse in practice.

Those who insist that slavery was the cause of the Civil War can hardly claim that nothing but blood could have wiped it out, and that the court of war was the proper tribunal to settle it. The slaves were valued at $1,200,000,000. The war cost $3,418,000,000, besides the interest and pensions paid, and who would attempt to put a money value on the half million of men who were slain in battle or died of disease and wounds, and the other half million crippled for life?

What can take the place of war? Disputes will arise between people of different nations, and how are they to be settled?

Simply, as most of them are now settled, by peaceable means. By a conference between the nations directly interested, if they can agree, and by arbitration if they fail to agree. All cases, great and small, between individuals, are settled in a court; why cannot all international differences be settled in an international court? The leading nations have for nearly a hundred years past been holding conferences to perfect the laws of nations or civilized warfare, if such a term is not a misnomer. These laws relate to treatment of prisoners, to mitigating the severities of war on the sick and wounded, to dealing with those through whose country the track of war passes, etc.

The conference at St. Petersburg, in 1868, stated that the only legitimate object which states should endeavor to accomplish during war is to weaken the military force of the enemy, and for this purpose it is sufficient to disable the greatest number of men; that this object would be exceeded by the employment of arms which uselessly aggravate the suffering of disabled men or render their death inevitable; that the employment of such arms would therefore be contrary to the laws of humanity. The contracting parties therefore agree to renounce, in case of war among themselves, the employment by their military or naval troops of any projectile of a weight below four hundred grammes, which is either explosive or charged with fulminating or inflammable substances.

Twenty nations signed this agreement. Could they not just as easily, and with more consistency, have declared that the legitimate object of war is to secure peace, and in the interests of humanity demanded that peace should thereafter be maintained by peaceable means?

If it hurts a man to be struck by a small explosive ball weighing only an ounce, why will it not interfere with his peace of mind and general earthly happiness to strike him with a hundred-pound bombshell?

These rules of humanity are evidently based on the idea that the best thing that can be done with a man in war is to kill him. Why could not these great merciful military leaders, in their loving interest for humanity, have declared that hereafter all guns must be loaded in blank and all swords and bayonets made of paper? This would still give the military hero a chance to display himself and draw his pay.

In a call for an international congress in 1874, Prince Gortchakoff of Russia used this language: "The motive by which it is inspired is one of humanity. The more that solidarity becomes developed, which tends in these times to bring together nations as the members of one family, the more their military organization tends to give wars the character of conflicts between armed nations, the more necessary does it become, therefore, to determine with greater precision than in times past the laws and usages admissible in a state of war, in order to limit the consequences and diminish the calamities attendant upon it, as far as it may seem possible or desirable. With this end in view, it seems indispensable to establish, by common accord, upon a basis of complete reciprocity, rules that may be binding on all governments and their armies."

It seems too plain to need argument that if nations can agree on laws to conduct war, they can just as easily adopt laws to dispense with it. What shall be done in case a nation violate one of the boasted rules of humanity when it engages in war with another? Will the other nations stand and look on like the roughs that surround

the prize-ring, and when one strikes the other below the belt prescribed by their laws of humanity, will they interfere? Might they not more properly act as a police force, stop the fighting and compel those who had so little sense as to engage in it to settle their dispute in a half-civilized way? Would not the same diplomacy that makes the laws to control war make laws to prevent it?

If the causes of all the wars in history be studied, it will be found that, leaving out the devilish ambition of man for honor, power, money, and display, a civil court of very ordinary ability would have found no difficulty in deciding what should have been a fair basis of a peaceable settlement in nearly every case. There must be a treaty or some kind of peaceable settlement or understanding after the war; why not make this treaty before the war?

Take the case of the Franco-German war of 1870. Who can give any reason for that which would be sufficient to justify two prominent business men in going into a civil lawsuit? The immediate cause of the conflict, apparently, was the fact that the French Ambassador at Berlin was not treated with that punctilious courtesy to which he thought his dignity was entitled; and of course patriotism and courage and a high sense of honor demanded of France that she should teach Germany not to offend the French representative, even if he were a dude. She kept 427,000 men armed and drilled just on purpose to resent such little slights as this, and Germany kept 447,000 to resent any resentment.

France declared war on the 10th of July, 1870, and in the following February she sent a deputation to say that her sense of offended honor was fully satisfied, and to ask Germany what she would charge to stop the game of war and settle the remainder of the dispute peaceably. The

terms were soon made. Germany would settle on France's paying one thousand million dollars and ceding to her Alsace and Lorraine. In war, might makes right, and France had no alternative but to accept the terms, because the might was on the other side. If Germany had seen fit to double the forfeit, enormous as it was, poor France, to demonstrate her belief in the justice of war, and her faith in the sword as a balm for her wounded honor, would have been compelled to accept, or do worse.

By making a treaty of peace before instead of after the war, France would have saved a billion dollars of indemnity and an army of cripples, to say nothing of the thousands who went down to death, and the general demoralization that always results from war. She lost more in this one short campaign than she would in a thousand years, by the unjust and enforced demands of other nations, if she were a nation of peace, refusing to fight.

It will be remembered that at the close of our late war the United States had a claim of a hundred million dollars against England for damages wrongfully done our shipping. England claimed that she did not owe us a cent, and refused to pay us any thing. Now here was a grand chance to vindicate national honor by the force of arms; for seldom have wars resulted from so direct a cause as this. Both sides grew warm and war seemed almost inevitable. Of course a hundred million dollars would only be a small share of the expense of getting ready for war, but that was not taken into consideration. Individuals frequently resort to legal warfare for satisfaction, and they generally get it. So do governments when they go to war for it. We felt that England ought to pay us the money, but it was not the money we cared most

for. It was to show Mother England that we have our ideas of honor and dignity to maintain, and that we should spend a thousand millions, lose a hundred thousand lives, and run the risk of a thrashing besides. just to show that we are not to be trifled with.

Fortunately a happy thought struck somebody. We do not know to whom belongs the honor, but it may be set down that he was not a military man. He suggested just what we might expect any sensible man to do under the circumstances, that the matter be arbitrated. Our people had been having a little experience at the court of war that was still fresh in mind, and they took kindly to the suggestion. Fortunately, so did England, and accordingly a commission of prominent Americans and Englishmen met at Washington February 27, 1871, and arranged the plan of selecting arbiters. It was agreed that the President of the United States, Queen of England, King of Italy, President of the Swiss Confederation, and the Emperor of Brazil should each select one person, and these five were to meet and adjust the matter as they should deem right. What a wise and humane plan, as far above war as heaven is above hell! These commissioners of peace met at Geneva, Switzerland, and after a careful examination of the case awarded the United States $15,500,000 in gold, which England paid without a murmur.

About this time our northwestern boundary line between the United States and British America was in dispute. The Emperor of Germany was chosen to settle this. He decided in favor of the United States, and all cheerfully acquiesced.

Can any one imagine a case that could not be settled in some such common-sense way? No government on earth can afford, even from an economic point of view, to take

a large body of men from its productive industries, and arm, feed, and clothe them at the expense of the remainder.

In 1880 the United States kept a standing army of 33,000 men at an expense of $53,000,000, besides the National Guard or State militia, which numbers 106,500 men, and costs heavily for clothing, guns, and the expense of going into camp every year. Added to this is a large interest on our war debt, besides $150,000,000 a year for pensions, making our tribute to the god of war over two hundred million dollars a year, or three dollars and a half for every man, woman, and child.

In ancient Egypt soldiers ranked in point of honor second only to the priests, and though it may seem surprising at first thought, is it not a fact that we show less wisdom in this respect than the benighted Egyptians? The military now outranks even the ministry, and the general in his pomposity and tinsel is more envied and honored and better paid than preacher, statesman, or jurist. The Vice-President of the United States receives $8,000 a year, while the General of the Army, a rank created for General Grant, and bestowed on General Sherman when Grant became President, draws a salary of $13,500, and an allowance of $125 per month for rent of quarters, and eight cents mileage for travelling expenses. The Lieutenant-General is paid $11,000 a year, with $100 per month for rent, and eight cents mileage. If I remember, these two offices, by act of Congress in 1878 or 1879, were to cease at the death of those holding them at that time. General Sheridan was the last to fill the place of Lieutenant-General, but a proposition has already been made looking to the continuance of this useless, foolish, and expensive office.

We grudgingly allow the United States Commissioner of Education $3,000 a year for his scholarly and arduous

duties, and have talked seriously of abolishing the office, but we pay seventy petty colonels $4,500 as long as they can see to go on dress-parade, and then retire them on a life salary of $3,375 a year. The chaplains of the House and the Senate try hard to earn their $900 apiece, while we think three major-generals cheap at $7,500 each, and six brigadiers at $5,500 apiece. The salary of the Chief-Justice of the U. S. Supreme Court is $10,500, and that of admiral of our navy $13,000. The Secretary of State, an office that has commanded the ability of a Jefferson, an Adams, a Webster, a Bayard, and a Blaine, is paid $8,000, while a uniformed gentleman under the title of vice-admiral receives $9,000 a year when at sea, $8,000 when on shore, and $6,000 when nowhere.

No plausible plan has yet been proposed for keeping up the army without the private soldier, and hence he is still retained at a salary of $156 a year and rations. After a little more experience we may be able to dispense entirely with the privates and divide their pittance among the officers.

Historians and biographers seem to assume that the military man is entitled to first place on the roll of honor, and most of our histories are crowded with the names and deeds of lieutenants, captains, colonels, and generals, many of whom nobody is wiser or better for knowing, while statesmen, divines, writers, and inventors remain "unhonored and unsung." One of the leading American cyclopædias gives the biographies of hundreds of "small fry" military men from the Middle Ages down, but we search in vain for the name of John Bannister Gibson, who for twenty-five years was Chief-Justice of the Supreme Court of Pennsylvania, and whose opinions are to-day quoted in every State of the Union as the highest legal authority.

Are we really in need of all these generals, admirals, commodores, etc., or, if we must have them, could we not squeeze along in some way with a cheaper lot until business improves? Would we be in any danger, either immediate or remote, from a foreign foe, if we should sell our navy to the highest bidder, and let the perfumed gentlemen with the big salaries go with it?

When the people of this utilitarian age once get this subject fairly before them for discussion, when the sunlight of investigation is turned on the question as to whether we get value received from these men who live by the "profession of arms," it will not be long until "Uncle Sam" will advertise, for sale cheap, a large stock of second-hand shoulder-straps, swords, and brass buttons.

Henry George, a close thinker, a careful observer, and a man of unquestioned ability, thus aptly touches this subject:

"The American Republic has no more need for its burlesque of a navy than a peaceable giant would have for a stuffed club or a tin sword. It is only maintained for the sake of the officers and the naval rings. In peace it is a source of expense and corruption; in war it would be useless. We are too strong for any foreign power to wantonly attack; we ought to be too great to wantonly attack others. If war should ever be forced upon us, we could safely rely upon science and invention, which are already superseding navies faster than they can be built.

"So with our army. All we need, if we even now need that, is a small force of frontier police, such as is maintained in Australia and Canada. Standing armies and navies are inimical to the genius of democracy, and it ought to be our pride, as it is our duty, to show the world that a great republic can dispense with both. And in organization, as in principle, both our navy and our army

are repugnant to the democratic idea. In both we maintain that distinction between commissioned and common soldiers and sailors, which arose in Europe when the nobility which furnished the one were considered a superior race to the serfs and peasants who supplied the other. The whole system is an insult to democracy, and ought to be swept away."

England in 1880 had in her army and navy 258,000 men, at an expense of $127,000,000; France had 523,000 men, at an expense of $140,000,000; Germany, 448,000 men, at a cost of $99,000,000; Russia, 835,000 men, costing $162,000,000.

War has no respect for age, sex, or size, and of course little Italy must keep a standing army to be ready to fight big Russia. She has 216,000 men, at a cost of $54,000,000, and at the same time has so many beggars that she sends them to us in shiploads. One steamship recently landed 528 Italian emigrants at the barge office in New York, and the sum total of their capital was $72.40, or less than fourteen cents apiece. Italy's public debt is $2,000,000,000, or $72 per head, and it has been constantly increasing. The average income for each inhabitant in 1880 was $43.21, of which $13.70 went for taxes.

The Portuguese, the poorest-fed people of Europe, with a population less than that of Pennsylvania, are cursed with a standing army of 34,000 men, at a cost of $50,000,000. Their public debt is $431,000,000, or $109 a head. Their average income in 1880 was $39,08 for each inhabitant, while their taxes averaged $8.72 per head.

Is it possible that peace can be purchased in no other way than by fighting for it, and impoverishing the people to maintain standing armies? If that be the only plan, would not Italy, Portugal, and the other small powers of

Europe better say to England or Germany: "Come and get us. Our government is too much of a burden to be borne." What real difference could it make anyhow to the average Italian whether he trains under the banner of Humbert I. or Queen Victoria; or to the Dane whether he owes allegiance to Christian IX. or Emperor William?

We owe an apology to the god of patriotism for even suggesting so unholy a thing. Such a sentiment would be regarded in some countries as treasonable. A man hardly dares to express the thought that having all the world under one big monarch would be a good thing, if it would abolish wars and standing armies. What a change it would make in tariff legislation too!

"Oh," some say, "it does n't make any difference to us how they manage in Europe." It does make a difference. If Italy would withdraw her standing army, and put the men to producing, instead of having them a dead weight on the others, she would not flood us with a horde of paupers every year. The same is true as to some of the other countries of Europe.

The military spirit should be abhorred by every man. The idea that the "profession of arms" is either honorable or necessary should be hooted out of existence. It would be a blessing to humanity if a convulsion of some kind would level every military school, gun-works, and fort to the earth, and sink every war vessel on every sea. "Let the swords be beaten into ploughshares and the spears into pruning-hooks."

Military schools, military companies, and parades tend to keep the war spirit alive. The military feature introduced into some of our colleges should be condemned as evil, and a man who believes in peace and not in war should not send his son to a school where any part of the

training is to have pupils march around like puppets in a wax-works show, carrying either real or wooden guns.

Contrary to the commonly accepted opinion, the nation least prepared for war is best prepared for peace. If rulers do not have sense enough to avoid war on account of its horrible character, they sometimes hesitate to go into it if they do not have so many men or vessels as the other power that is spoiling for a fight. When a nation has a large army it is far more likely to feel like using it than when the force is small. Of what use is it to keep a large army fed, clothed, and paid, and not give it something to do, is not the thought commonly expressed, but it is one that exists nevertheless. A more arrogant disposition is assumed in dealing with other powers, when a large standing army is in the field, and an occasion will sooner arise in which honor demands blood. Military men long for something to do in order to distinguish themselves, and it is astonishing how rapidly a war feeling spreads when once it gets a start. The sentiment of honor, a very artificial one, more like childish vanity or self-conceit, puts most men on their fighting disposition. Newspapers delight in the sensational, and magnify the slightest symptoms of international trouble into a justifiable cause for immediate hostilities. So long as war is recognized at all as a civilized method of settling international disputes it is likely to arise from very trifling causes.

If it is right and proper for government to spend millions every year to be ready to defend an attack that may never be made, why is it not right for the bully to carry a revolver and bowie-knife to defend himself from an attack that he expects to provoke. There is not one chance in a thousand that the government will find a justifiable cause for using instruments of self-defence, if she has none, and there is about the same probability that the bully would lose his life by lacking the means of defence.

The bully, without his barbarous allies, the pistol and the dirk, would be much more cautious in provoking an attack, and governments in this respect resemble the bully. The government lowest in the scale of enlightenment is the one most likely to feel called upon to resent a real or imaginary aggression, and the individual with lowest instincts is the one who feels it necessary to carry concealed weapons to defend his carcass from expected assault which, if ever made, will come because of his strutting around with a chip on his shoulder.

Nothing is truer than the saying of Cowper:

> "War 's a game which, were their subjects wise,
> Kings would not play at."

If the subjects of governments were truly wise, when war is threatened they would say to those in authority: "You are managing our public affairs and get your pay for it. You were not only willing but anxious to assume the reins of government for the honor conferred and the money paid, and we shall hold you responsible for keeping the peace. If you, and the rulers of other nations, are not wise enough and good enough to keep from quarreling, you must do your own fighting. You may choose your own means of killing one another, but you must excuse us from taking any part in human butchery. If you cannot settle the dispute peaceably, and will not do so forcibly, you must abdicate and give place to wiser and better rulers."

If subjects of all governments would do this, would there be any more war? Never. The potentates would get together, have a "feast of reason and a flow of soul," and international difficulties would be settled in some diplomat's upholstered parlor with a drop of ink and a pen, instead of on the bloody field with musket, sword, and cannon.

In olden times when the Philistines were gathered on one side of the valley and Saul with the men of Israel on the other ready for battle, Goliath came out from the Philistines and made a very fair proposition: "Choose you a man for you, and let him come down to me. If he be able to fight with me and kill me, then we will be your servants; but if I prevail against him and kill him, then shall ye be our servants and serve us." It may be that Goliath's size had something to do with this humane offer, for, according to the account, he was about eleven feet and a half high and proportionately wide, and his coat of mail weighed a hundred and fifty pounds. Taking Goliath as described, he must have looked fully as dangerous as a member of the Pennsylvania State Guard. Even Saul preferred that some other man should have the glory of killing him.

One morning when he was out on dress parade and making his usual announcement, he attracted the attention of David, a young man who had taken some corn down to his army friends. David said to one of his comrades: "Who is this uncircumcised Philistine that he should defy the army of the living God?" When David understood the condition of affairs he proposed to Saul that he would meet the giant, saying that he once had some experience with a bear and a lion, and he would do with the uncircumcised Philistine as he had done with them.

With a sling, and a stone from the brook he slew Goliath at the first onset, though the giant had a man in front of him with his shield to ward off the blows. We cannot find, however, that the Philistines felt bound by what their big man had promised, for they did not wait to be made slaves but immediately fled.

Newspaper reports say that General Ezeta, of San Sal-

vador, has sent a challenge to President Barillas, of Guatemala, in order to settle, by a duel, the dispute between the two little powers now engaged in war in Central America. The President, of course, will refuse as the General expects him to do.

There is not much likelihood that this method of settling national disputes will become common. That is not the way it is done. In a duel, barbarous as it is, the principals do the fighting; in war, those who have nothing to say must do it.

Rulers, animated by that accursed spirit of pride, ambition, and vanity, are arrogant, insolent, and defiant in their intercourse with one another. Sometimes, in fact very often, the rulers are military men who look on the "profession of arms" as a corn doctor looks on his profession, as the most honorable in the world. They hatch a real or pretended insult or injury, and demand an apology or indemnity from some power. Like two ignorant, angry old women, the longer they talk the further they get away from the subject, and from a settlement.

Finally, after various efforts in which sense and reason have no share, they conclude, in the language of a prominent American before the late war, that "a little bloodletting would be a good thing," and they say: "We have tried every honorable means to have a peaceful settlement, but we have failed. Our honor is at stake, our patriotism is in the balance, and there is nothing now but to resort to the arbitrament of war. Get ready to leave your homes, your business, your wives and children; shoulder a musket and go into the field. We will issue bonds, borrow the money, pay you thirteen dollars a month, and you can pay it back with interest after the war is over."

The men who are responsible on both sides for the failure of a peaceable settlement make themselves major-

generals, colonels, captains, etc., at a good salary, or if their minds run to money rather than shoulder-straps, they go into contracting and grow into millionaires in the course of a short war, by furnishing provisions and clothing for those in the field. When enough destruction of life and property has been caused to terrorize one side or the other, a truce is called, and a treaty of peace is made. Some of these treaties have been made without once referring to the cause of the war, and historians are unable to give definite causes for many of the wars of history, or to state what principles were recognized in their settlement.

Is it not time that human beings should cease butchering one another? Have not enlightened governments, at least, had enough of war?

Strange it is, but true, that when Charles Sumner tried to get Congress to take measures looking toward the peaceable settlement of all international difficulties, his grand idea did not receive a respectful consideration. Congress was busy with a question of "fish bait," or some other serious international subject, and could not take time to discuss Sumner's resolution.

It will be necessary for some nation to take the lead in the matter, and urge upon others the necessity and humanity of having an international court of arbitration to settle disputes. If Sumner, who hated war as the devil is popularly supposed to hate holy water, had received the encouragement and aid that his grand scheme deserved, it might have been for the United States to claim the glory of abolishing war among civilized governments, and this would be the brightest page in all history.

The standing armies of the world are not only a constant menace against peace, but a blighting curse on account of their expense. Who will take the lead in try-

ing to convince the world that the one greatly needed article of international law is one to settle claims peaceably, and not one to regulate the killing of strong men and caring for the wounded after the battle is over?

Every man who wears the ministerial robes should be an active member of the Peace Society. If ministers of the gospel of peace would every year preach a sermon on the horrors of war, with a tithe of Channing's eloquence and of his hatred of war, the curse would soon perish from the civilized portion of the globe. Strange as it may appear, instead of condemning war on all proper occasions, they are at least passive, if indeed they do not lend a weak sanction to it.

They are not only willing but anxious to act as chaplains in the regular army. Only a few days ago a chaplaincy was filled from a list of over five hundred applicants.

It would never do to go into battle without ministers as chaplains to invoke the blessing and help of God in the good work. As well might a Chaldean king have attempted to get along without his soothsayers, as for an army to expect to win a battle without chaplains. Just think of these holy men in Meade's and Lee's armies, offering up their petitions for success on the evening before the battle of Gettysburg. They could offer the same prayer, and it should have run in this way: "Our Father in Heaven, Thou who dost love all Thy creatures, Thou who hast made us in Thy image and but a little lower than the good angels, we implore Thee to be with us in the coming conflict, and let Thy divine blessing rest upon our good work. Protect us, kind Father, from the shot and shell of the enemy. Direct our aim, that we may cover the earth with the mangled and dead of our foe. Wilt Thou not blind their eyes, paralyze their arms, turn

away their deadly missiles from us, and strike terror to their hearts so that we may overthrow them in everlasting defeat? Give us tender hearts, and cause us to love our enemies, and to do good to all them that do despitefully use us. Forgive us our trespasses as we forgive those who trespass against us, and to Thee will we ascribe all glory and praise. Amen."

Is it strange that some men scoff at religion and prayer? Is it not rather a wonder that the number is not larger? The minister, imbued with the true spirit of his calling, cannot conscientiously pray for the success of an army in its legitimate work, which is to kill. He can consistently ask the Lord to bring about by peaceable means the result that he would like to see accomplished, and his prayer, besides being consistent with his profession, is just as likely to be answered in one case as in the other.

Ministers, North and South, in the late war, draggled their sacerdotal garments in blood, and were as violent in their expressions of malignity and vengeance as were the ignorant laymen for whom they should have been worthy examples of forbearance, charity, and forgiveness. "Why spend so much time in talking of war," some may say; "we are in no danger of war."

If we are not, then why keep up our militia, standing army, and navy? Why spend millions in building vessels of war? We *ought* not to be in any danger of war, but so long as it is recognized at all as a method of settling questions, we are in danger. Are not Secretary Blaine and Her Majesty at the present time having a "jawing match" over the seals in the Behring Sea? Many a lady has had her head turned by a seal-skin, and great governments have declared war and fought over just as trifling a matter, and we may yet be called upon to shoulder arms and go to Alaska to protect our seal-skins.

Mr. Blaine's latest, so far as I know, is a series of interrogation points to the British Minister. On the fourteenth of this month (August) he asks: "Whence did the ships of Canada derive the right to do in 1886 that from which they had refrained from doing for more than ninety years? Upon what grounds did Her Majesty's government defend in the year 1886 a course of conduct in the Behring Sea which she had carefully avoided ever since the discovery of that sea? By what reasoning did Her Majesty's government conclude that an act may be committed with impunity against the rights of the United States which had never been attempted against the same rights when held by the Russian Empire?" The British Minister will perhaps write and ask Her Majesty as to her fighting condition, and if found to be all right, he will say to Mr. Blaine, "You 're another." Then after a few more exchanges of courtesies, war vessels may be sent to the Behring Sea and the fighting begin. It would be all the more in keeping with the governmental way of doing things to wait until the seals are all killed, and then fight about them.

As an able man remarked recently, in regard to the Behring Sea controversy, "The United States, of course, is right, but not as right as she ought to be." Certainly the question is not so complicated nor so important as was the case of the Alabama Claims. It was settled peaceably, and so can the "seal-skin" case be amicably arranged, if too many cheap statesmen, with more patriotism than sense, do not urge Mr. Blaine too hard.

We cannot better close this chapter than by giving some opinions of good and able men on war.

Henry Richard: "Give me the money that has been spent in war, and I will purchase every foot of land on the globe. I will clothe every man, woman, and child in

an attire of which queens and kings would be proud. I will build a school-house on every hill-side and in every valley over the whole earth; I will build an academy in every town and endow it, a college in every state and fill it with able professors.

"I will crown every hill with a place of worship, consecrate it to the promulgation of the gospel of peace; I will support in every pulpit an able teacher of righteousness, so that on every Sabbath morning the chime on one hill should answer to the chime on another, round the earth's wide circumference, and the voice of prayer and the song of praise should ascend like a universal holocaust to heaven."

Burke: "War suspends the rules of moral obligation, and what is long suspended is in danger of total abrogation. Civil wars strike deepest of all into the manners of the people; they vitiate their politics, they corrupt their morals, they pervert even the natural taste and relish of equity and justice. By teaching us to regard our fellows in a hostile manner, the whole nation becomes gradually less dear to us.

"The very names of affection and kindred which were the bond of charity whilst we agreed, become new objects of hatred and rage when the communion of our country is dissolved."

Luther: "War is one of the greatest plagues that can afflict humanity; it destroys religion; it destroys states; it destroys families.

"Any scourge is in fact preferable to it. Famine and pestilence become as nothing in comparison with it. Pestilence is the least evil of the three, and it was therefore David chose it, willing rather to fall into the hands of God than into those of pitiless man. Cannon and fire-arms are cruel and damnable machines. I believe

them to have been the direct suggestion of the devil. If Adam had seen in a vision the horrible instruments his children were to invent, he would have died of grief."

Bovee: "War should no longer receive the sanction of the virtuous and good. Gospel teachers should never undertake to reconcile its lessons with the precepts of Christianity. The youth of our country should be taught that it is not only a calamity, but a crime. A correct public sentiment should close the avenues to honor and distinction to all who seek preferment through the blood of mankind. Standing armies should no longer be employed to eat the bread of idleness and to waste the substance of the people. Disarmament should become universal. The demoniac spirit of war should give place to the gospel of peace; and to this end all good citizens should use every honorable exertion to bring war into merited and lasting disgrace."

Channing: "Is this insanity never to cease? False notions of national honor, as false and unholy as those of the duellist, do most toward fanning this fire. Great nations, like great boys, place their honor in resisting insult and fighting well. One would think the time had gone by when nations need to rush to arms to prove that they are not cowards. If there is one truth which history has taught us, it is that communities in all stages of society, from the most barbarous to the most civilized, have sufficient courage. No people can charge upon its conscience that it has not shed blood enough in proof of its valor. Almost every man under the stimulus of the camp can stand fire. The poor wretch enlisted from the dram-shop and turned into the ranks soon fights like a hero. Is it not time that the point of honor should undergo some change; that some glimpses at least of the true glory of a nation should be caught by rulers and people? It is the

honor of a man to pass over a transgression, and so it is of states.

"To be wronged is no disgrace. To bear wrong generously till every means of reconciliation is exhausted, to recoil with manly dread from the slaughter of our fellow-creatures, to put confidence in the justice which other nations will do our motives, to have that consciousness of courage which will make us scorn the reproach of cowardice, to feel that there is something grander than the virtue of savages, to desire peace for the world as well as ourselves, and to shrink from kindling a flame that may involve the world,—these are the principles and feelings which do honor to a people. Has not the time come when a nation professing these may cast itself on the candor of mankind? Must fresh blood forever flow to keep clean the escutcheon of a nation's glory? For me, I look on war with a horror which no words can express.

"I have long lacked patience to read of battles. Were the world of my mind, no man would fight for glory; for the name of a commander, who has no other claim to respect, seldom passes my lips, and the want of sympathy drives him from my mind. The thought of man, God's immortal child, butchered by his brother; the thought of sea and land stained with human blood by human hands; of women and children buried under the ruins of besieged cities; of the resources of empires and the mighty powers of nature all turned by man's malignity into engines of torture and destruction; —this thought gives to earth the semblance of hell. I shudder as among demons. I cannot now, as I once did, talk lightly, thoughtlessly, of fighting with this or that nation. That nation is no longer a vague mass. It spreads out before me into individuals in a thousand interesting forms and relations. It consists of

husbands and wives, parents and children, who love one another as I love my own home.

"Here is the nation I am called to fight in, into whose families I must send mourning, whose fall or humiliation I must seal through blood. I cannot do it without a clear commission from God. I love this nation; its men and women are my brothers and sisters. I could not thrust a sword into their hearts.

"In general, war is the work of ambitious men whose principles have gained no strength from the experience of public life; whose policy is colored, if not swayed, by personal views or party interest; who do not seek peace with a single heart; who, to secure doubtful rights, perplex the foreign relations of the state, spread jealousies at home and abroad, enlist popular passions on the side of strife, commit themselves too far to retreat, and are then forced to leave to the arbitration of the sword what an impartial umpire could have easily arranged. The question of peace and war is too often settled for a country by men in whom a Christian, a lover of his race, can put little or no trust, and at the bidding of such men is he to steep his hands in human blood? But this insanity is passing away. This savageness cannot endure forever, however hardened men are to it by long use."

Since this chapter was written two events have occurred that are worthy of mention. Information comes from France, indicating that the military idea of honor and courage has received a set-back in that country. Heretofore it has been compulsory for officers to fight duels when challenged, and these contests were encouraged for the alleged purpose of "promoting a high ideal of honor among the troops."

M. de Freycinet, the French Minister of War, on the 23d of last month (August), issued a decree in which he

states that the duel must cease to be compulsory, and that in future the decision of the officers whether they will elect to fight or not, will be left to their own discretion.

The other event is one of great importance, and will cause every lover of peace to rejoice. It shows that the present Congress has more enlightened ideas regarding the settlement of international disputes than had the one in which Sumner tried to pass a like proposition.

The fact that our Representatives had taken any such praiseworthy step had escaped my observation until the following appeared in the newspapers:

"Washington, Sept. 3d, 1890.—The President to-day transmitted to Congress the recommendations of the International American Congress touching international arbitration, together with a letter of transmittal from Secretary Blaine. In his letter the Secretary says:

"'The Act of Congress approved May 24th, 1888, authorized the President to invite the several other governments of America to join the United States in a conference "for the purpose of discussing and recommending for adoption some plan of arbitration for the settlement of disagreements and disputes that may hereafter arise between them."

"'In pursuance of this invitation the conference, recently in session at the Capitol, adopted three reports:

"'First—Recommending a definite plan of arbitration for the settlement of differences between the American nations.

"'Second—Recommending the adoption of a similar plan by the nations of Europe.

"'Third—Declaring that the right of conquest could not be recognized by the American nations.'"

The President, in his letter, says: "The ratification of the treaties contemplated by these reports will constitute

one of the happiest and most hopeful incidents in the history of the Western hemisphere."

All three recommendations are eminently wise and proper, and must commend themselves to intelligent men everywhere. May we not hope that from this beginning made by our Congress will grow a wise international law that shall cause the world to learn war no more forever?

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